

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY MAY 4, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 3076

**Introduced by Committee on Revenue and Taxation (Klehs
(Chair), Canciamilla, Chu, and Jones)**

March 23, 2006

An act to amend Sections 61, 62, 69.5, 170, 6360.1, 8106, 9271, 30459.1, 32471, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332, 60063, 60101, 60201.3, 60604, 60606, and 60636 of, to amend the heading of Part 2 (commencing with Section 7301) of Division 2 of, to add Sections 9152.2, 30178.3, 30459.15, 32402.2, 32471.5, 38800, 40112.2, 40211.5, 41101.2, 41171.5, 43452.2, 43522.5, 45652.2, 45867.5, 46502.2, 46628, 50140.2, 55222.2, 55332.5, 60522.2, and 60637 to, and to repeal Sections 8106.1, 8106.5, 8106.8, 60045, and 60046 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 3076, as amended, Committee on Revenue and Taxation. Taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in

ownership has occurred. For purposes of these provisions, existing law specifies that taxable real property has changed ownership when that property is leased for 35 years or more, including renewal options. Existing law conclusively presumes that all homes that are eligible for the homeowners' exemption, other than specified manufactured homes, and that are on leased land are under a lease that have a renewal option of at least 35 years.

This bill would exclude floating homes from the conclusive presumption that homes eligible for the homeowners' exemption that are on leased land are under a lease that has a renewal option of at least 35 years.

(2) The California Constitution and existing property tax law authorize taxpayers that meet certain conditions to transfer the base year value, as defined, of property to replacement property. Existing law requires a taxpayer that seeks to transfer the base year value of property to replacement property to file a claim for this transfer within 3 years of purchasing or constructing the replacement property.

This bill would require the assessor to consider a base year value transfer application that is filed after that deadline and make conforming changes. This bill would also specify how the base year value of the replacement property described in the application would be determined.

(3) Existing property tax law authorizes counties to adopt ordinances that allow assessees whose property was damaged or destroyed to apply for a reassessment of that property if certain conditions, including the filing of an application for reassessment, are met. Existing law requires the assessor of a county that has adopted such an ordinance to notify the last known owner of property that the assessor has determined has been damaged or destroyed, but for which an application for reassessment was not filed. Existing law requires an assessee that received this notice from the assessor and that seeks to have the property reassessed to file an application for reassessment within 60 days of receiving the notice, but prohibits the assessee from submitting this application more than 12 months after the damage occurred.

This bill would eliminate this 60 day filing requirement to instead require that assessees file applications for base year value reductions within 12 months of the damage to the property.

(4) *By changing the manner in which county assessors determine changes in ownership and process claims for base year value transfers and reassessments, this bill would impose a state-mandated local program.*

(1)

(5) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including an exemption for symbolic, impermanent lapel pins that memorialize United States military veterans killed in foreign wars, as provided.

This bill would correct an obsolete cross-reference in this provision.

(2)

(6) The Motor Vehicle Fuel-LICENSE Tax Law allows a supplier, as defined, to claim a refund of the license tax paid for the motor vehicle fuel under specific circumstances, including, but not limited to, where the supplier buys and uses the fuel for purposes other than operating motor vehicles upon the public highways of the state, exports the fuel, sells the fuel to a consulate officer or employee, or delivers the tax-paid fuel to a terminal and removes the fuel from the terminal, as provided. Under this law, a supplier entitled to a refund may elect to take a credit in lieu of a refund where the fuel was purchased for use off highway, exported, sold to a consulate officer or employee, or delivered and removed from a terminal, as specified.

This bill would consolidate the procedures for a supplier who chooses to claim a credit in lieu of a refund where the supplier exported, removed, sold or used the tax-paid motor vehicle fuel, as provided, *and would make nonsubstantive changes to the heading of that law.*

(3)

(7) The Use Fuel Tax Law, the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Law, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, the Fee Collection Procedures Law, and the Diesel Fuel Tax Law establish specified limitation periods for the approval by the State Board of Equalization for any refund for an overpayment.

This bill would provide that, notwithstanding those provisions, a refund of an overpayment of any tax, penalty, or interest collected by the board by means of a levy or by other enforcement procedures, shall be approved if the claim is filed within 3 years of the date of the overpayment.

~~(4)~~

(8) The State Board of Equalization, as part of its administrative functions, is authorized to enter into settlement agreements for civil tax, or fee, or surcharge liability if it is determined that the settlement amount is consistent with a reasonable evaluation of the costs and risks associated with litigation, as provided. Existing law requires that whenever a reduction in tax, or fee, or surcharge in excess of \$500 is approved by the State Board of Equalization and the Franchise Tax Board, a public record containing specified information with regard to the settlement shall be placed on file in the office of the executive officer.

This bill would authorize the executive director and the chief counsel of the board to approve jointly the settlement of any tax, or fee, or surcharge matter in dispute involving a reduction of tax, or fee, or surcharge or penalties in settlement of \$5,000 or less. This bill would require that whenever a reduction of tax, or fee, or surcharge or penalties, or total tax, or fee, or surcharge and penalties in excess of \$500 is approved, a public record be kept at the executive director's office, as provided. This bill would also conform and clarify public record requirements.

~~(5)~~

(9) Existing law requires the State Board of Equalization to administer the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Timber Yield Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Law, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Fee Collection Procedures Law, and the Diesel Fuel Tax Law. Under these laws, when a liability is not paid when due, the board is authorized to use various procedures to collect the amounts due.

This bill would authorize the board to accept offers in compromise on a final tax, surcharge, or fee liability, as defined, under the various fee, surcharge, and tax programs, as provided. This bill would require a taxpayer, fee payer, or a surcharge payer, under specified

circumstances, to file a statement under penalty of perjury and would additionally provide that the willful concealment or withholding of information, as specified, in connection with an offer of compromise is a felony, and would thereby impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(6)~~

~~(10) The Diesel Fuel Tax Law prohibits any person from operating or maintaining a motor vehicle on the public highway with dyed diesel fuel, except if dyed diesel fuel is used in a manner that is lawful under the Internal Revenue Code by a person who is registered in a specific capacity under the Diesel Fuel Tax Law, including an intercity bus operator, as provided.~~

~~This bill would remove that exception.~~

~~(7)~~

~~(11) The Diesel Fuel Tax Law imposes specified taxes with respect to diesel fuel and authorizes one taxpayer to pay another taxpayer's tax liability on fuel removed from the terminal rack, operative only if authorized by the IRS.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

~~(8)~~

~~(12) Under the existing Diesel Fuel Tax Law, a customer who has failed to pay for diesel fuel when the supplier of the diesel fuel has been allowed a credit on the fuel, as specified, is liable for the fuel tax as an unlicensed supplier, as provided. Existing law further provides that the tax, penalties, and interest owed by the unlicensed supplier become immediately due and payable.~~

~~This bill would require the board to give the customer notice of the determination of tax liability within 3 years after the date the credit was taken or the date on which a refund was paid.~~

~~(9)~~

~~(13) The Diesel Fuel Tax Law requires specified persons that are involved in the sale, removal, transportation, or storage of diesel fuel to keep and maintain specified records, including highway vehicle operator/refuelers.~~

This bill would change this reference to highway vehicle operator/fuelers to conform with existing provisions.

(14)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, with regard to certain mandates, no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 61 of the Revenue and Taxation Code is
2 amended to read:

3 61. Except as otherwise provided in Section 62, change in
4 ownership, as defined in Section 60, includes, but is not limited
5 to:

6 (a) The creation, renewal, sublease, assignment, or other
7 transfer of the right to produce or extract oil, gas, or other
8 minerals regardless of the period during which the right may be
9 exercised. The balance of the property, other than the mineral
10 rights, shall not be reappraised pursuant to this section.

11 (b) The creation, renewal, extension, or assignment of a
12 taxable possessory interest in tax exempt real property for any
13 term. For purposes of this subdivision:

14 (1) "Renewal" and "extension" do not include the granting of
15 an option to renew or extend an existing agreement pursuant to
16 which the term of possession of the existing agreement would,
17 upon exercise of the option, be lengthened, whether the option is
18 granted in the original agreement or subsequent thereto.

19 (2) Any "renewal" or "extension" of a possessory interest
20 during the reasonably anticipated term of possession used by the
21 assessor to value that interest does not cause a change in
22 ownership until the end of the reasonably anticipated term of
23 possession used by the assessor to value that interest. At the end

1 of the reasonably anticipated term of possession used by the
2 assessor, a new base year value, based on a new reasonably
3 anticipated term of possession, shall be established for the
4 possessory interest.

5 (3) "Assignment" of a possessory interest means the transfer
6 of all rights held by a transferor in a possessory interest.

7 (c) ~~(1)~~—The creation of a leasehold interest in taxable real
8 property for a term of 35 years or more (including renewal
9 options), the termination of a leasehold interest in taxable real
10 property which had an original term of 35 years or more
11 (including renewal options), and any transfer of a leasehold
12 interest having a remaining term of 35 years or more (including
13 renewal options); or (2) any transfer of a lessor's interest in
14 taxable real property subject to a lease with a remaining term
15 (including renewal options) of less than 35 years.

16 Only that portion of a property subject to that lease or transfer
17 shall be considered to have undergone a change in ownership.

18 For the purpose of this subdivision, for 1979–80 and each year
19 thereafter, it shall be conclusively presumed that all homes
20 eligible for the homeowners' exemption, other than
21 manufactured homes located on rented or leased land and subject
22 to taxation pursuant to Part 13 (commencing with Section 5800)
23 *and floating homes subject to taxation pursuant to Section 229*,
24 that are on leased land have a renewal option of at least 35 years
25 on the lease of that land, whether or not in fact that renewal
26 option exists in any contract or agreement.

27 (d) (1) (A) A sublease of a taxable possessory interest in
28 tax-exempt real property for a term, including renewal options,
29 that exceeds half the length of the remaining term of the
30 leasehold, including renewal options.

31 (B) The termination of a sublease of a taxable possessory
32 interest in tax-exempt property with an original term, including
33 renewal options, that exceeds half the length of the remaining
34 term of the leasehold, including renewal options.

35 (C) Any transfer of a sublessee's interest with a remaining
36 term, including renewal options, that exceeds half of the
37 remaining term of the leasehold.

38 (2) Any transfer of a possessory interest in tax-exempt real
39 property subject to a sublease with a remaining term, including

1 renewal options, that does not exceed half the remaining term of
2 the leasehold, including renewal options.

3 (e) The creation, transfer, or termination of any joint tenancy
4 interest, except as provided in subdivision (f) of Section 62, and
5 in Section 63 and Section 65.

6 (f) The creation, transfer, or termination of any
7 tenancy-in-common interest, except as provided in subdivision
8 (a) of Section 62 and in Section 63.

9 (g) Any vesting of the right to possession or enjoyment of a
10 remainder or reversionary interest that occurs upon the
11 termination of a life estate or other similar precedent property
12 interest, except as provided in subdivision (d) of Section 62 and
13 in Section 63.

14 (h) Any interests in real property that vest in persons other
15 than the trustor (or, pursuant to Section 63, his or her spouse)
16 when a revocable trust becomes irrevocable.

17 (i) The transfer of stock of a cooperative housing corporation,
18 vested with legal title to real property that conveys to the
19 transferee the exclusive right to occupancy and possession of that
20 property, or a portion thereof. A “cooperative housing
21 corporation” is a real estate development in which membership in
22 the corporation, by stock ownership, is coupled with the
23 exclusive right to possess a portion of the real property.

24 (j) The transfer of any interest in real property between a
25 corporation, partnership, or other legal entity and a shareholder,
26 partner, or any other person.

27 *SEC. 1.1. Section 62 of the Revenue and Taxation Code is*
28 *amended to read:*

29 62. Change in ownership shall not include:

30 (a) (1) Any transfer between coowners that results in a change
31 in the method of holding title to the real property transferred
32 without changing the proportional interests of the coowners in
33 that real property, such as a partition of a tenancy in common.

34 (2) Any transfer between an individual or individuals and a
35 legal entity or between legal entities, such as a cotenancy to a
36 partnership, a partnership to a corporation, or a trust to a
37 cotenancy, that results solely in a change in the method of
38 holding title to the real property and in which proportional
39 ownership interests of the transferors and transferees, whether
40 represented by stock, partnership interest, or otherwise, in each

1 and every piece of real property transferred, remain the same
2 after the transfer. The provisions of this paragraph shall not apply
3 to transfers also excluded from change in ownership under the
4 provisions of subdivision (b) of Section 64.

5 (b) Any transfer for the purpose of perfecting title to the
6 property.

7 (c) (1) The creation, assignment, termination, or
8 reconveyance of a security interest; or (2) the substitution of a
9 trustee under a security instrument.

10 (d) Any transfer by the trustor, or by the trustor's spouse, or by
11 both, into a trust for so long as (1) the transferor is the present
12 beneficiary of the trust, or (2) the trust is revocable; or any
13 transfer by a trustee of such a trust described in either clause (1)
14 or (2) back to the trustor; or, any creation or termination of a trust
15 in which the trustor retains the reversion and in which the interest
16 of others does not exceed 12 years duration.

17 (e) Any transfer by an instrument whose terms reserve to the
18 transferor an estate for years or an estate for life. However, the
19 termination of such an estate for years or estate for life shall
20 constitute a change in ownership, except as provided in
21 subdivision (d) and in Section 63.

22 (f) The creation or transfer of a joint tenancy interest if the
23 transferor, after the creation or transfer, is one of the joint tenants
24 as provided in subdivision (b) of Section 65.

25 (g) Any transfer of a lessor's interest in taxable real property
26 subject to a lease with a remaining term (including renewal
27 options) of 35 years or more. For the purpose of this subdivision,
28 for 1979-80 and each year thereafter, it shall be conclusively
29 presumed that all homes eligible for the homeowners' exemption,
30 other than manufactured homes located on rented or leased land
31 and subject to taxation pursuant to Part 13 (commencing with
32 Section 5800) *and floating homes subject to taxation pursuant to*
33 *Section 229*, that are on leased land have a renewal option of at
34 least 35 years on the lease of that land, whether or not in fact that
35 renewal option exists in any contract or agreement.

36 (h) Any purchase, redemption, or other transfer of the shares
37 or units of participation of a group trust, pooled fund, common
38 trust fund, or other collective investment fund established by a
39 financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative that was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975, to March 1, 1981, between coowners in any property that was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980-81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of these corporations, or any combination thereof (including any transfer from one entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(l) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to

1 express the true intentions of the parties, provided that the
2 original relationship between the grantor and grantee is not
3 changed.

4 (m) Any intrafamily transfer of an eligible dwelling unit from
5 a parent or parents or legal guardian or guardians to a minor child
6 or children or between or among minor siblings as a result of a
7 court order or judicial decree due to the death of the parent or
8 parents. As used in this subdivision, “eligible dwelling unit”
9 means the dwelling unit that was the principal place of residence
10 of the minor child or children prior to the transfer and remains
11 the principal place of residence of the minor child or children
12 after the transfer.

13 (n) Any transfer of an eligible dwelling unit, whether by will,
14 devise, or inheritance, from a parent or parents to a child or
15 children, or from a guardian or guardians to a ward or wards, if
16 the child, children, ward, or wards have been disabled, as
17 provided in subdivision (e) of Section 12304 of the Welfare and
18 Institutions Code, for at least five years preceding the transfer
19 and if the child, children, ward, or wards have adjusted gross
20 income that, when combined with the adjusted gross income of a
21 spouse or spouses, parent or parents, and child or children, does
22 not exceed twenty thousand dollars (\$20,000) in the year in
23 which the transfer occurs. As used in this subdivision, “child” or
24 “ward” includes a minor or an adult. As used in this subdivision,
25 “eligible dwelling unit” means the dwelling unit that was the
26 principal place of residence of the child or children, or ward or
27 wards for at least five years preceding the transfer and remains
28 the principal place of residence of the child or children, or ward
29 or wards after the transfer. Any transferee whose property was
30 reassessed in contravention of the provisions of this subdivision
31 for the 1984-85 assessment year shall obtain a reversal of that
32 reassessment upon application to the county assessor of the
33 county in which the property is located. Application by the
34 transferee shall be made to the assessor no later than 30 days
35 after the later of either the transferee’s receipt of notice of
36 reassessment pursuant to Section 75.31 or the end of the 1984-85
37 fiscal year.

38 (o) Any transfer of a possessory interest in tax-exempt real
39 property subject to a sublease with a remaining term, including

1 renewal options, that exceeds half the length of the remaining
2 term of the leasehold, including renewal options.

3 (p) Commencing with the lien date for the 2006-07 fiscal year,
4 any transfer between registered domestic partners, as defined in
5 Section 297 of the Family Code, including, but not limited to:

6 (1) Transfers to a trustee for the beneficial use of a registered
7 domestic partner, or the surviving registered domestic partner of
8 a deceased transferor, or by a trustee of such a trust to the
9 registered domestic partner of the trustor.

10 (2) Transfers that take effect upon the death of a registered
11 domestic partner.

12 (3) Transfers to a registered domestic partner or former
13 registered domestic partner in connection with a property
14 settlement agreement or decree of dissolution of a registered
15 domestic partnership or legal separation.

16 (4) The creation, transfer, or termination, solely between
17 registered domestic partners, of any coowner's interest.

18 (5) The distribution of a legal entity's property to a registered
19 domestic partner or former registered domestic partner in
20 exchange for the interest of the registered domestic partner in the
21 legal entity in connection with a property settlement agreement
22 or a decree of dissolution of a registered domestic partnership or
23 legal separation.

24 *SEC. 1.2. Section 69.5 of the Revenue and Taxation Code is*
25 *amended to read:*

26 69.5. (a) (1) Notwithstanding any other provision of law,
27 pursuant to subdivision (a) of Section 2 of Article XIII A of the
28 California Constitution, any person over the age of 55 years, or
29 any severely and permanently disabled person, who resides in
30 property that is eligible for the homeowners' exemption under
31 subdivision (k) of Section 3 of Article XIII of the California
32 Constitution and Section 218 may transfer, subject to the
33 conditions and limitations provided in this section, the base year
34 value of that property to any replacement dwelling of equal or
35 lesser value that is located within the same county and is
36 purchased or newly constructed by that person as his or her
37 principal residence within two years of the sale by that person of
38 the original property, provided that the base year value of the
39 original property shall not be transferred to the replacement
40 dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

1 (2) The original property is eligible for the homeowners'
2 exemption, as the result of the claimant's ownership and
3 occupation of the property as his or her principal residence, either
4 at the time of its sale, or at the time when the original property
5 was substantially damaged or destroyed by misfortune or
6 calamity, or within two years of the purchase or new construction
7 of the replacement dwelling.

8 (3) At the time of the sale of the original property, the
9 claimant or the claimant's spouse who resides with the claimant
10 is at least 55 years of age, or is severely and permanently
11 disabled.

12 (4) At the time of claiming the property tax relief provided by
13 subdivision (a), the claimant is an owner of a replacement
14 dwelling and occupies it as his or her principal place of residence
15 and, as a result thereof, the property is currently eligible for the
16 homeowners' exemption or would be eligible for the exemption
17 except that the property is already receiving the exemption
18 because of an exemption claim filed by the previous owner.

19 (5) The original property of the claimant is sold by him or her
20 within two years of the purchase or new construction of the
21 replacement dwelling. For purposes of this paragraph, the
22 purchase or new construction of the replacement dwelling
23 includes the purchase of that portion of land on which the
24 replacement building, structure, or other shelter constituting a
25 place of abode of the claimant will be situated and that, pursuant
26 to paragraph (3) of subdivision (g), constitutes a part of the
27 replacement dwelling.

28 (6) The replacement dwelling, including that portion of land
29 on which it is situated that is specified in paragraph (5), is located
30 entirely within the same county as the claimant's original
31 property.

32 (7) The claimant has not previously been granted, as a
33 claimant, the property tax relief provided by this section, except
34 that this paragraph shall not apply to any person who becomes
35 severely and permanently disabled subsequent to being granted,
36 as a claimant, the property tax relief provided by this section for
37 any person over the age of 55 years. In order to prevent
38 duplication of claims under this section within this state, county
39 assessors shall report quarterly to the State Board of Equalization
40 that information from claims filed in accordance with subdivision

(f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(A) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the manufactured home or the base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of the claimant includes an interest in a resident-owned mobilehome park, the

1 assessor shall transfer to the claimant's replacement dwelling the
2 base year value of the claimant's manufactured home and his or
3 her pro rata portion of the real property of the park. No transfer
4 of base year value shall be made by the assessor of that portion of
5 land that does not constitute a part of the original property, as
6 provided in paragraph (4) of subdivision (g).

7 (B) If the manufactured home or the manufactured home and
8 the land on which it is situated constitutes the claimant's
9 replacement dwelling, the assessor shall transfer the base year
10 value of the claimant's original property either to the
11 manufactured home or the manufactured home and the land on
12 which it is situated, as appropriate. If the manufactured home
13 dwelling that constitutes the replacement dwelling of the
14 claimant includes an interest in a resident-owned mobilehome
15 park, the assessor shall transfer the base year value of the
16 claimant's original property to the manufactured home of the
17 claimant and his or her pro rata portion of the park. No transfer
18 of base year value shall be made by the assessor to that portion of
19 land that does not constitute a part of the replacement dwelling,
20 as provided in paragraph (3) of subdivision (g).

21 This subdivision shall be subject to the limitations specified in
22 subdivision (d).

23 (d) The property tax relief provided by this section shall be
24 available to a claimant who is the coowner of the original
25 property, as a joint tenant, a tenant in common, or a community
26 property owner, subject to the following limitations:

27 (1) If a single replacement dwelling is purchased or newly
28 constructed by all of the coowners and each coowner retains an
29 interest in the replacement dwelling, the claimant shall be
30 eligible under this section whether or not any or all of the
31 remaining coowners would otherwise be eligible claimants.

32 (2) If two or more replacement dwellings are separately
33 purchased or newly constructed by two or more coowners and
34 more than one coowner would otherwise be an eligible claimant,
35 only one coowner shall be eligible under this section. These
36 coowners shall determine by mutual agreement which one of
37 them shall be deemed eligible.

38 (3) If two or more replacement dwellings are separately
39 purchased or newly constructed by two coowners who held the
40 original property as community property, only the coowner who

1 has attained the age of 55 years, or is severely and permanently
2 disabled, shall be eligible under this section. If both spouses are
3 over 55 years of age, they shall determine by mutual agreement
4 which one of them is eligible.

5 In the case of coowners whose original property is a multiunit
6 dwelling, the limitations imposed by paragraphs (2) and (3) shall
7 only apply to coowners who occupied the same dwelling unit
8 within the original property at the time specified in paragraph (2)
9 of subdivision (b).

10 (e) Upon the sale of original property, the assessor shall
11 determine a new base year value for that property in accordance
12 with subdivision (a) of Section 2 of Article XIII A of the
13 California Constitution and Section 110.1, whether or not a
14 replacement dwelling is subsequently purchased or newly
15 constructed by the former owner or owners of the original
16 property.

17 This section shall not apply unless the transfer of the original
18 property is a change in ownership that either (1) subjects that
19 property to reappraisal at its current fair market value in
20 accordance with Section 110.1 or 5803 or (2) results in a base
21 year value determined in accordance with this section, Section
22 69, or Section 69.3 because the property qualifies under this
23 section, Section 69, or Section 69.3 as a replacement dwelling or
24 property.

25 (f) (1) A claimant shall not be eligible for the property tax
26 relief provided by this section unless the claimant provides to the
27 assessor, on a form that the assessor shall make available upon
28 request, the following information:

29 ~~(1)~~

30 (A) The name and social security number of each claimant and
31 of any spouse of the claimant who is a record owner of the
32 replacement dwelling.

33 ~~(2)~~

34 (B) Proof that the claimant or the claimant's spouse who
35 resided on the original property with the claimant was, at the
36 time of its sale, at least 55 years of age, or severely and
37 permanently disabled. Proof of severe and permanent disability
38 shall be considered a certification, signed by a licensed physician
39 and surgeon of appropriate specialty, attesting to the claimant's
40 severely and permanently disabled condition. In the absence of

1 available proof that a person is over 55 years of age, the claimant
2 shall certify under penalty of perjury that the age requirement is
3 met. In the case of a severely and permanently disabled claimant
4 either of the following shall be submitted:

5 ~~(A)~~

6 (i) A certification, signed by a licensed physician or surgeon
7 of appropriate specialty that identifies specific reasons why the
8 disability necessitates a move to the replacement dwelling and
9 the disability-related requirements, including any locational
10 requirements, of a replacement dwelling. The claimant shall
11 substantiate that the replacement dwelling meets
12 disability-related requirements so identified and that the primary
13 reason for the move to the replacement dwelling is to satisfy
14 those requirements. If the claimant, or the claimant's spouse or
15 guardian, so declares under penalty of perjury, it shall be
16 rebuttably presumed that the primary purpose of the move to the
17 replacement dwelling is to satisfy identified disability-related
18 requirements.

19 ~~(B)~~

20 (ii) The claimant's substantiation that the primary purpose of
21 the move to the replacement dwelling is to alleviate financial
22 burdens caused by the disability. If the claimant, or the
23 claimant's spouse or guardian, so declares under penalty of
24 perjury, it shall be rebuttably presumed that the primary purpose
25 of the move is to alleviate the financial burdens caused by the
26 disability.

27 ~~(3)~~

28 (C) The address and, if known, the assessor's parcel number of
29 the original property.

30 ~~(4)~~

31 (D) The date of the claimant's sale of the original property and
32 the date of the claimant's purchase or new construction of a
33 replacement dwelling.

34 ~~(5)~~

35 (E) A statement by the claimant that he or she occupied the
36 replacement dwelling as his or her principal place of residence on
37 the date of the filing of his or her claim.

38 ~~The State Board of Equalization shall design the form for~~
39 ~~claiming eligibility.~~

40 ~~Any~~

1 (F) Any claim under this section shall be filed within three
2 years of the date the replacement dwelling was purchased or the
3 new construction of the replacement dwelling was completed
4 subject to subdivision (k) or (m).

5 (2) A claim for transfer of base year value under this section
6 that is filed after the expiration of the filing period set forth in
7 subparagraph (F) of paragraph (1) shall be considered by the
8 assessor, subject to all of the following conditions:

9 (A) Any base year value transfer granted pursuant to that
10 claim shall apply commencing with the lien date of the
11 assessment year in which the claim is filed.

12 (B) The full cash value of the replacement property in the
13 assessment year described in subparagraph (A) shall be the base
14 year value of the real property in the assessment year in which
15 the base year value was transferred, factored to the assessment
16 year described in subparagraph (A) for both of the following:

17 (i) Inflation as annually determined in accordance with
18 paragraph (1) of subdivision (a) of Section 51.

19 (ii) Any subsequent new construction occurring with respect to
20 the subject real property that does not qualify for property tax
21 relief pursuant to the criteria set forth in subparagraphs (A) and
22 (B) of paragraph (4) of subdivision (h).

23 (g) For purposes of this section:

24 (1) “Person over the age of 55 years” means any person or the
25 spouse of any person who has attained the age of 55 years or
26 older at the time of the sale of the original property.

27 (2) “Base year value of the original property” means its base
28 year value, as determined in accordance with Section 110.1, with
29 the adjustments permitted by subdivision (b) of Section 2 of
30 Article XIII A of the California Constitution and subdivision (f)
31 of Section 110.1, determined as of the date immediately prior to
32 the date that the original property is sold by the claimant, or in
33 the case where the original property has been substantially
34 damaged or destroyed by misfortune or calamity and the owner
35 does not rebuild on the original property, determined as of the
36 date immediately prior to the misfortune or calamity.

37 If the replacement dwelling is purchased or newly constructed
38 after the transfer of the original property, “base year value of the
39 original property” also includes any inflation factor adjustments
40 permitted by subdivision (f) of Section 110.1 for the period

1 subsequent to the sale of the original property. The base year or
2 years used to compute the “base year value of the original
3 property” shall be deemed to be the base year or years of any
4 property to which that base year value is transferred pursuant to
5 this section.

6 (3) “Replacement dwelling” means a building, structure, or
7 other shelter constituting a place of abode, whether real property
8 or personal property, that is owned and occupied by a claimant as
9 his or her principal place of residence, and any land owned by the
10 claimant on which the building, structure, or other shelter is
11 situated. For purposes of this paragraph, land constituting a part
12 of a replacement dwelling includes only that area of reasonable
13 size that is used as a site for a residence, and “land owned by the
14 claimant” includes land for which the claimant either holds a
15 leasehold interest described in subdivision (c) of Section 61 or a
16 land purchase contract. Each unit of a multiunit dwelling shall be
17 considered a separate replacement dwelling. For purposes of this
18 paragraph, “area of reasonable size that is used as a site for a
19 residence” includes all land if any nonresidential uses of the
20 property are only incidental to the use of the property as a
21 residential site. For purposes of this paragraph, “land owned by
22 the claimant” includes an ownership interest in a resident-owned
23 mobilehome park that is assessed pursuant to subdivision (b) of
24 Section 62.1.

25 (4) “Original property” means a building, structure, or other
26 shelter constituting a place of abode, whether real property or
27 personal property, that is owned and occupied by a claimant as
28 his or her principal place of residence, and any land owned by the
29 claimant on which the building, structure, or other shelter is
30 situated. For purposes of this paragraph, land constituting a part
31 of the original property includes only that area of reasonable size
32 that is used as a site for a residence, and “land owned by the
33 claimant” includes land for which the claimant either holds a
34 leasehold interest described in subdivision (c) of Section 61 or a
35 land purchase contract. Each unit of a multiunit dwelling shall be
36 considered a separate original property. For purposes of this
37 paragraph, “area of reasonable size that is used as a site for a
38 residence” includes all land if any nonresidential uses of the
39 property are only incidental to the use of the property as a
40 residential site. For purposes of this paragraph, “land owned by

1 the claimant” includes an ownership interest in a resident-owned
2 mobilehome park that is assessed pursuant to subdivision (b) of
3 Section 62.1.

4 (5) “Equal or lesser value” means that the amount of the full
5 cash value of a replacement dwelling does not exceed one of the
6 following:

7 (A) One hundred percent of the amount of the full cash value
8 of the original property if the replacement dwelling is purchased
9 or newly constructed prior to the date of the sale of the original
10 property.

11 (B) One hundred and five percent of the amount of the full
12 cash value of the original property if the replacement dwelling is
13 purchased or newly constructed within the first year following
14 the date of the sale of the original property.

15 (C) One hundred and ten percent of the amount of the full cash
16 value of the original property if the replacement dwelling is
17 purchased or newly constructed within the second year following
18 the date of the sale of the original property.

19 For the purposes of this paragraph, except as otherwise
20 provided in paragraph (4) of subdivision (h), if the replacement
21 dwelling is, in part, purchased and, in part, newly constructed,
22 the date the “replacement dwelling is purchased or newly
23 constructed” is the date of purchase or the date of completion of
24 construction, whichever is later.

25 (6) “Full cash value of the replacement dwelling” means its
26 full cash value, determined in accordance with Section 110.1, as
27 of the date on which it was purchased or new construction was
28 completed, and after the purchase or the completion of new
29 construction.

30 (7) “Full cash value of the original property” means, either:

31 (A) Its new base year value, determined in accordance with
32 subdivision (e), without the application of subdivision (h) of
33 Section 2 of Article XIII A of the California Constitution, plus
34 the adjustments permitted by subdivision (b) of Section 2 of
35 Article XIII A and subdivision (f) of Section 110.1 for the period
36 from the date of its sale by the claimant to the date on which the
37 replacement property was purchased or new construction was
38 completed.

39 (B) In the case where the original property has been
40 substantially damaged or destroyed by misfortune or calamity

1 and the owner does not rebuild on the original property, its full
2 cash value, as determined in accordance with Section 110,
3 immediately prior to its substantial damage or destruction by
4 misfortune or calamity, as determined by the county assessor of
5 the county in which the property is located, without the
6 application of subdivision (h) of Section 2 of Article XIII A of
7 the California Constitution, plus the adjustments permitted by
8 subdivision (b) of Section 2 of Article XIII A and subdivision (f)
9 of Section 110.1, for the period from the date of its sale by the
10 claimant to the date on which the replacement property was
11 purchased or new construction was completed.

12 (8) “Sale” means any change in ownership of the original
13 property for consideration.

14 (9) “Claimant” means any person claiming the property tax
15 relief provided by this section. If a spouse of that person is a
16 record owner of the replacement dwelling, the spouse is also a
17 claimant for purposes of determining whether in any future claim
18 filed by the spouse under this section the condition of eligibility
19 specified in paragraph (7) of subdivision (b) has been met.

20 (10) “Property that is eligible for the homeowners’ exemption”
21 includes property that is the principal place of residence of its
22 owner and is entitled to exemption pursuant to Section 205.5.

23 (11) “Person” means any individual, but does not include any
24 firm, partnership, association, corporation, company, or other
25 legal entity or organization of any kind.

26 (12) “Severely and permanently disabled” means any person
27 described in subdivision (b) of Section 74.3.

28 (13) For the purposes of this section property is “substantially
29 damaged or destroyed by misfortune or calamity” if it sustains
30 physical damage amounting to more than 50 percent of its full
31 cash value immediately prior to the misfortune or calamity.
32 Damage includes a diminution in the value of property as a result
33 of restricted access to the property where the restricted access
34 was caused by the misfortune or calamity and is permanent in
35 nature.

36 (h) (1) Upon the timely filing of a claim *described in*
37 *subparagraph (F) of paragraph (1) of subdivision (f)*, the
38 assessor shall adjust the new base year value of the replacement
39 dwelling in conformity with this section. This adjustment shall be
40 made as of the latest of the following dates:

1 (A) The date the original property is sold.

2 (B) The date the replacement dwelling is purchased.

3 (C) The date the new construction of the replacement dwelling
4 is completed.

5 (2) Any taxes that were levied on the replacement dwelling
6 prior to the filing of the claim on the basis of the replacement
7 dwelling's new base year value, and any allowable annual
8 adjustments thereto, shall be canceled or refunded to the claimant
9 to the extent that the taxes exceed the amount that would be due
10 when determined on the basis of the adjusted new base year
11 value.

12 (3) Notwithstanding Section 75.10, Chapter 3.5 (commencing
13 with Section 75) shall be utilized for purposes of implementing
14 this subdivision, including adjustments of the new base year
15 value of replacement dwellings acquired prior to the sale of the
16 original property.

17 (4) In the case where a claim under this section has been
18 timely filed and granted, and new construction is performed upon
19 the replacement dwelling subsequent to the transfer of base year
20 value, the property tax relief provided by this section also shall
21 apply to the replacement dwelling, as improved, and thus there
22 shall be no reassessment upon completion of the new
23 construction if both of the following conditions are met:

24 (A) The new construction is completed within two years of the
25 date of the sale of the original property and the owner notifies the
26 assessor in writing of completion of the new construction within
27 30 days after completion.

28 (B) The fair market value of the new construction on the date
29 of completion, plus the full cash value of the replacement
30 dwelling on the date of acquisition, is not more than the full cash
31 value of the original property as determined pursuant to
32 paragraph (7) of subdivision (g) for purposes of granting the
33 original claim.

34 (i) Any claimant may rescind a claim for the property tax
35 relief provided by this section and shall not be considered to have
36 received that relief for purposes of paragraph (7) of subdivision
37 (b), and the assessor shall grant the rescission, if a written notice
38 of rescission is delivered to the office of the assessor as follows:

1 (1) A written notice of rescission signed by the original filing
2 claimant or claimants is delivered to the office of the assessor in
3 which the original claim was filed.

4 (2) (A) Except as otherwise provided in this paragraph, the
5 notice of rescission is delivered to the office of the assessor
6 before the date that the county first issues, as a result of relief
7 granted under this section, a refund check for property taxes
8 imposed upon the replacement dwelling. If granting relief will
9 not result in a refund of property taxes, then the notice shall be
10 delivered before payment is first made of any property taxes, or
11 any portion thereof, imposed upon the replacement dwelling
12 consistent with relief granted under this section. If payment of
13 the taxes is not made, then notice shall be delivered before the
14 first date that those property taxes, or any portion thereof,
15 imposed upon the replacement dwelling, consistent with relief
16 granted under this section, are delinquent.

17 (B) Notwithstanding any other provision in this division, any
18 time the notice of rescission is delivered to the office of the
19 assessor within six years after relief was granted, provided that
20 the replacement property has been vacated as the claimant's
21 principal place of residence within 90 days after the original
22 claim was filed, regardless of whether the property continues to
23 receive the homeowners' exemption. If the rescission increases
24 the base year value of a property, or the homeowners' exemption
25 has been incorrectly allowed, appropriate escape assessments or
26 supplemental assessments, including interest as provided in
27 Section 506, shall be imposed. The limitations periods for any
28 escape assessments or supplemental assessments shall not
29 commence until July 1 of the assessment year in which the notice
30 of rescission is delivered to the office of the assessor.

31 (3) The notice is accompanied by the payment of a fee as the
32 assessor may require, provided that the fee shall not exceed an
33 amount reasonably related to the estimated cost of processing a
34 rescission claim, including both direct costs and developmental
35 and indirect costs, such as costs for overhead, personnel,
36 supplies, materials, office space, and computers.

37 (j) (1) With respect to the transfer of base year value of
38 original properties to replacement dwellings located in the same
39 county, this section, except as provided in paragraph (3) or (4),

1 shall apply to any replacement dwelling that is purchased or
2 newly constructed on or after November 6, 1986.

3 (2) With respect to the transfer of base year value of original
4 properties to replacement dwellings located in different counties,
5 except as provided in paragraph (4), this section shall apply to
6 any replacement dwelling that is purchased or newly constructed
7 on or after the date specified in accordance with subparagraph
8 (E) of paragraph (2) of subdivision (a) in the ordinance of the
9 county in which the replacement dwelling is located, but shall not
10 apply to any replacement dwelling which was purchased or
11 newly constructed before November 9, 1988.

12 (3) With respect to the transfer of base year value by a
13 severely and permanently disabled person, this section shall
14 apply only to replacement dwellings that are purchased or newly
15 constructed on or after June 6, 1990.

16 (4) The amendments made to subdivision (e) by the act adding
17 this paragraph shall apply only to replacement dwellings under
18 Section 69 that are acquired or newly constructed on or after
19 October 20, 1991, and shall apply commencing with the 1991-92
20 fiscal year.

21 (k) (1) In the case in which a county adopts an ordinance
22 pursuant to paragraph (2) of subdivision (a) that establishes an
23 applicable date which is more than three years prior to the date of
24 adoption of the ordinance, those potential claimants who
25 purchased or constructed replacement dwellings more than three
26 years prior to the date of adoption of the ordinance and who
27 would, therefore, be precluded from filing a timely claim, shall
28 be deemed to have timely filed a claim if the claim is filed within
29 three years after the date that the ordinance is adopted. This
30 paragraph may not be construed as a waiver of any other
31 requirement of this section.

32 (2) In the case in which a county assessor corrects a base year
33 value to reflect a pro rata change in ownership of a
34 resident-owned mobilehome park that occurred between January
35 1, 1989, and January 1, 2002, pursuant to paragraph (4) of
36 subdivision (b) of Section 62.1, those claimants who purchased
37 or constructed replacement dwellings more than three years prior
38 to the correction and who would, therefore, be precluded from
39 filing a timely claim, shall be deemed to have timely filed a claim
40 if the claim is filed within three years of the date of notice of the

1 correction of the base year value to reflect the pro rata change in
2 ownership. This paragraph may not be construed as a waiver of
3 any other requirement of this section.

4 (3) This subdivision does not apply to a claimant who has
5 transferred his or her replacement dwelling prior to filing a claim.

6 (4) The property tax relief provided by this section, but filed
7 under this subdivision, shall apply prospectively only,
8 commencing with the lien date of the assessment year in which
9 the claim is filed. There shall be no refund or cancellation of
10 taxes prior to the date that the claim is filed.

11 (l) No escape assessment may be levied if a transfer of base
12 year value under this section has been erroneously granted by the
13 assessor pursuant to an expired ordinance authorizing intercounty
14 transfers of base year value.

15 (m) (1) The amendments made to subdivisions (b) and (g) of
16 this section by Chapter 613 of the Statutes of 2001 shall apply:

17 (A) With respect to the transfer of base year value of original
18 properties to replacement dwellings located in the same county,
19 to any replacement dwelling that is purchased or newly
20 constructed on or after November 6, 1986.

21 (B) With respect to the transfer of base year value of original
22 properties to replacement dwellings located in different counties,
23 to any replacement dwelling that is purchased or newly
24 constructed on or after the date specified in accordance with
25 subparagraph (E) of paragraph (2) of subdivision (a) in the
26 ordinance of the county in which the replacement dwelling is
27 located, but not to any replacement dwelling that was purchased
28 or newly constructed before November 9, 1988.

29 (C) With respect to the transfer of base year value by a
30 severely and permanently disabled person, to replacement
31 dwellings that are purchased or newly constructed on or after
32 June 6, 1990.

33 (2) The property tax relief provided by this section in
34 accordance with this subdivision shall apply prospectively only
35 commencing with the lien date of the assessment year in which
36 the claim is filed. There shall be no refund or cancellation of
37 taxes prior to the date that the claim is filed. ~~Notwithstanding~~
38 ~~subdivision (f), a claim shall be deemed to be timely filed if it is~~
39 ~~filed within four years after the operative date of the act adding~~
40 ~~this paragraph.~~

1 (n) A claim filed under this section is not a public document
2 and is not subject to public inspection, except that a claim shall
3 be available for inspection by the transferee and the transferor or
4 their respective spouse, the transferee's legal representative, the
5 transferor's legal representative, and the executor or
6 administrator of the transferee's or transferor's estate.

7 *SEC. 1.3. Section 170 of the Revenue and Taxation Code is*
8 *amended to read:*

9 170. (a) Notwithstanding any provision of law to the
10 contrary, the board of supervisors may, by ordinance, provide
11 that every assessee of any taxable property, or any person liable
12 for the taxes thereon, whose property was damaged or destroyed
13 without his or her fault, may apply for reassessment of that
14 property as provided herein. The ordinance may also specify that
15 the assessor may initiate the reassessment where the assessor
16 determines that within the preceding 12 months taxable property
17 located in the county was damaged or destroyed.

18 To be eligible for reassessment the damage or destruction to
19 the property shall have been caused by any of the following:

20 (1) A major misfortune or calamity, in an area or region
21 subsequently proclaimed by the Governor to be in a state of
22 disaster, if that property was damaged or destroyed by the major
23 misfortune or calamity that caused the Governor to proclaim the
24 area or region to be in a state of disaster. As used in this
25 paragraph, "damage" includes a diminution in the value of
26 property as a result of restricted access to the property where that
27 restricted access was caused by the major misfortune or calamity.

28 (2) A misfortune or calamity.

29 (3) A misfortune or calamity that, with respect to a possessory
30 interest in land owned by the state or federal government, has
31 caused the permit or other right to enter upon the land to be
32 suspended or restricted. As used in this paragraph, "misfortune or
33 calamity" includes a drought condition such as existed in this
34 state in 1976 and 1977.

35 The application for reassessment may be filed within the time
36 specified in the ordinance or within 12 months of the misfortune
37 or calamity, whichever is later, by delivering to the assessor a
38 written application requesting reassessment showing the
39 condition and value, if any, of the property immediately after the
40 damage or destruction, and the dollar amount of the damage. The

1 application shall be executed under penalty of perjury, or if
2 executed outside the State of California, verified by affidavit.

3 An ordinance may be made applicable to a major misfortune or
4 calamity specified in paragraph (1) or to any misfortune or
5 calamity specified in paragraph (2), or to both, as the board of
6 supervisors determines. An ordinance may not be made
7 applicable to a misfortune or calamity specified in paragraph (3),
8 unless an ordinance making paragraph (2) applicable is operative
9 in the county. The ordinance may specify a period of time within
10 which the ordinance shall be effective, and, if no period of time
11 is specified, it shall remain in effect until repealed.

12 (b) Upon receiving a proper application, the assessor shall
13 appraise the property and determine separately the full cash value
14 of land, improvements and personalty immediately before and
15 after the damage or destruction. If the sum of the full cash values
16 of the land, improvements and personalty before the damage or
17 destruction exceeds the sum of the values after the damage by ten
18 thousand dollars (\$10,000) or more, the assessor shall also
19 separately determine the percentage reductions in value of land,
20 improvements and personalty due to the damage or destruction.
21 The assessor shall reduce the values appearing on the assessment
22 roll by the percentages of damage or destruction computed
23 pursuant to this subdivision, and the taxes due on the property
24 shall be adjusted as provided in subdivision (e). However, the
25 amount of the reduction shall not exceed the actual loss.

26 (c) The assessor shall notify the applicant in writing of the
27 amount of the proposed reassessment. The notice shall state that
28 the applicant may appeal the proposed reassessment to the local
29 board of equalization within six months of the date of mailing the
30 notice. If an appeal is requested within the six-month period, the
31 board shall hear and decide the matter as if the proposed
32 reassessment had been entered on the roll as an assessment made
33 outside the regular assessment period. The decision of the board
34 regarding the damaged value of the property shall be final,
35 provided that a decision of the local board of equalization
36 regarding any reassessment made pursuant to this section shall
37 create no presumption as regards the value of the affected
38 property subsequent to the date of the damage.

39 Those reassessed values resulting from reductions in full cash
40 value of amounts, as determined above, shall be forwarded to the

1 auditor by the assessor or the clerk of the local equalization
2 board, as the case may be. The auditor shall enter the reassessed
3 values on the roll. After being entered on the roll, those
4 reassessed values shall not be subject to review, except by a court
5 of competent jurisdiction.

6 (d) (1) If no application is made and the assessor determines
7 that within the preceding 12 months a property has suffered
8 damage caused by misfortune or calamity that may qualify the
9 property owner for relief under an ordinance adopted under this
10 section, the assessor shall provide the last known owner of the
11 property with an application for reassessment. The property
12 owner shall file the completed application within ~~60 days of the~~
13 ~~date of mailing on notification by the assessor but in no case~~
14 ~~more than~~ 12 months after the occurrence of said damage. Upon
15 receipt of a properly completed, timely filed application, the
16 property shall be reassessed in the same manner as required in
17 subdivision (b).

18 (2) This subdivision does not apply where the assessor
19 initiated reassessment as provided in subdivision (a) or (l).

20 (e) The tax rate fixed for property on the roll on which the
21 property so reassessed appeared at the time of the misfortune or
22 calamity, shall be applied to the amount of the reassessment as
23 determined in accordance with this section and the assessee shall
24 be liable for: (1) a prorated portion of the taxes that would have
25 been due on the property for the current fiscal year had the
26 misfortune or calamity not occurred, to be determined on the
27 basis of the number of months in the current fiscal year prior to
28 the misfortune or calamity; plus, (2) a proration of the tax due on
29 the property as reassessed in its damaged or destroyed condition,
30 to be determined on the basis of the number of months in the
31 fiscal year after the damage or destruction, including the month
32 in which the damage was incurred. For purposes of applying the
33 preceding calculation in prorating supplemental taxes, the term
34 "fiscal year" means that portion of the tax year used to determine
35 the adjusted amount of taxes due pursuant to subdivision (b) of
36 Section 75.41. If the damage or destruction occurred after
37 January 1 and before the beginning of the next fiscal year, the
38 reassessment shall be utilized to determine the tax liability for the
39 next fiscal year. However, if the property is fully restored during
40 the next fiscal year, taxes due for that year shall be prorated

1 based on the number of months in the year before and after the
2 completion of restoration.

3 (f) Any tax paid in excess of the total tax due shall be refunded
4 to the taxpayer pursuant to Chapter 5 (commencing with Section
5 5096) of Part 9, as an erroneously collected tax or by order of the
6 board of supervisors without the necessity of a claim being filed
7 pursuant to Chapter 5.

8 (g) The assessed value of the property in its damaged
9 condition, as determined pursuant to subdivision (b) compounded
10 annually by the inflation factor specified in subdivision (a) of
11 Section 51, shall be the taxable value of the property until it is
12 restored, repaired, reconstructed or other provisions of the law
13 require the establishment of a new base year value.

14 If partial reconstruction, restoration, or repair has occurred on
15 any subsequent lien date, the taxable value shall be increased by
16 an amount determined by multiplying the difference between its
17 factored base year value immediately before the calamity and its
18 assessed value in its damaged condition by the percentage of the
19 repair, reconstruction, or restoration completed on that lien date.

20 (h) (1) When the property is fully repaired, restored, or
21 reconstructed, the assessor shall make an additional assessment
22 or assessments in accordance with subparagraph (A) or (B) upon
23 completion of the repair, restoration, or reconstruction:

24 (A) If the completion of the repair, restoration, or
25 reconstruction occurs on or after January 1, but on or before May
26 31, then there shall be two additional assessments. The first
27 additional assessment shall be the difference between the new
28 taxable value as of the date of completion and the taxable value
29 on the current roll. The second additional assessment shall be the
30 difference between the new taxable value as of the date of
31 completion and the taxable value to be enrolled on the roll being
32 prepared.

33 (B) If the completion of the repair, restoration, or
34 reconstruction occurs on or after June 1, but before the
35 succeeding January 1, then the additional assessment shall be the
36 difference between the new taxable value as of the date of
37 completion and the taxable value on the current roll.

38 (2) On the lien date following completion of the repair,
39 restoration, or reconstruction, the assessor shall enroll the new
40 taxable value of the property as of that lien date.

1 (3) For purposes of this subdivision, “new taxable value” shall
2 mean the lesser of the property’s (A) full cash value, or (B)
3 factored base year value or its factored base year value as
4 adjusted pursuant to subdivision (c) of Section 70.

5 (i) The assessor may apply Chapter 3.5 (commencing with
6 Section 75) of Part 0.5 in implementing this section, to the extent
7 that chapter is consistent with this section.

8 (j) This section applies to all counties, whether operating
9 under a charter or under the general laws of this state.

10 (k) Any ordinance in effect pursuant to Section 155.1, 155.13,
11 or 155.14 shall remain in effect according to its terms as if that
12 ordinance was adopted pursuant to this section, subject to the
13 limitations of subdivision (b).

14 (l) When the assessor does not have the general authority
15 pursuant to subdivision (a) to initiate reassessments, if no
16 application is made and the assessor determines that within the
17 preceding 12 months a property has suffered damage caused by
18 misfortune or calamity, that may qualify the property owner for
19 relief under an ordinance adopted under this section, the assessor
20 may, with the approval of the board of supervisors, reassess the
21 particular property for which approval was granted as provided in
22 subdivision (b) and notify the last known owner of the property
23 of the reassessment.

24 ~~SECTION 1.~~

25 *SEC. 1.4.* Section 6360.1 of the Revenue and Taxation Code
26 is amended to read:

27 6360.1. There are exempted from the taxes imposed by this
28 part, the gross receipts from the sale in this state of, and the
29 storage, use, or other consumption in this state of, a “Buddy
30 Poppy” or any other symbolic, impermanent lapel pin that
31 memorializes United States military veterans killed in foreign
32 wars of the United States, by any corporation established by the
33 Congress of the United States pursuant to Chapter 2301
34 (commencing with Section 23101) of Title 36 of the United
35 States Code, or any of that corporation’s subordinate state or
36 territorial subdivisions, local chapters, posts, or auxiliaries.

37 *SEC. 1.5.* *The heading of Part 2 (commencing with Section*
38 *7301) of Division 2 of the Revenue and Taxation Code is*
39 *amended to read:*

1 PART 2. MOTOR VEHICLE FUEL ~~LICENSE~~ TAX LAW

2
3 SEC. 2. Section 8106 of the Revenue and Taxation Code is
4 amended to read:

5 8106. In lieu of the collection and refund of the tax on
6 tax-paid motor vehicle fuel exported, removed, sold, or used by a
7 supplier in a manner that would entitle the supplier to claim a
8 refund under Section 8101, credit may be given the supplier upon
9 the supplier's tax return, and the determination of the amount of
10 tax shall be determined in accordance with any rules and
11 regulations the board may prescribe.

12 SEC. 3. Section 8106.1 of the Revenue and Taxation Code is
13 repealed.

14 SEC. 4. Section 8106.5 of the Revenue and Taxation Code is
15 repealed.

16 SEC. 5. Section 8106.8 of the Revenue and Taxation Code is
17 repealed.

18 SEC. 6. Section 9152.2 is added to the Revenue and Taxation
19 Code, to read:

20 9152.2. Notwithstanding Section 9152, a refund of an
21 overpayment of any tax, penalty, or interest collected by the
22 board by means of levy, through the use of liens, or by other
23 enforcement procedures, shall be approved if a claim for a refund
24 is filed within three years of the date of an overpayment.

25 SEC. 7. Section 9271 of the Revenue and Taxation Code is
26 amended to read:

27 9271. (a) It is the intent of the Legislature that the State
28 Board of Equalization, its staff, and the Attorney General pursue
29 settlements as authorized under this section with respect to civil
30 tax matters in dispute that are the subject of protests, appeals, or
31 refund claims, consistent with a reasonable evaluation of the
32 costs and risks associated with litigation of these matters.

33 (b) (1) Except as provided in paragraph (3) and subject to
34 paragraph (2), the executive director or chief counsel, if
35 authorized by the executive director, of the board may
36 recommend to the State Board of Equalization, itself, a
37 settlement of any civil tax matter in dispute.

38 (2) No recommendation of settlement shall be submitted to the
39 board, itself, unless and until that recommendation has been
40 submitted by the executive director or chief counsel to the

1 Attorney General. Within 30 days of receiving that
2 recommendation, the Attorney General shall review the
3 recommendation and advise, in writing, the executive director or
4 chief counsel of the board of his or her conclusions as to whether
5 the recommendation is reasonable from an overall perspective.
6 The executive director or chief counsel shall, with each
7 recommendation of settlement submitted to the board, itself, also
8 submit the Attorney General's written conclusions obtained
9 pursuant to this paragraph.

10 (3) A settlement of any civil tax matter in dispute involving a
11 reduction of tax or penalties in settlement, the total of which
12 reduction of tax and penalties in settlement does not exceed five
13 thousand dollars (\$5,000), may be approved by the executive
14 director and chief counsel, jointly. The executive director shall
15 notify the board, itself, of any settlement approved pursuant to
16 this paragraph.

17 (c) Whenever a reduction of tax, or penalties, or total tax and
18 penalties in settlement in excess of five hundred dollars (\$500) is
19 approved pursuant to this section, there shall be placed on file,
20 for at least one year, in the office of the executive director of the
21 board a public record with respect to that settlement. The public
22 record shall include all of the following information:

23 (1) The name or names of the taxpayers who are parties to the
24 settlement.

25 (2) The total amount in dispute.

26 (3) The amount agreed to pursuant to the settlement.

27 (4) A summary of the reasons why the settlement is in the best
28 interests of the State of California.

29 (5) For any settlement approved by the board, itself, the
30 Attorney General's conclusion as to whether the recommendation
31 of settlement was reasonable from an overall perspective.

32 The public record shall not include any information that relates
33 to any trade secret, patent, process, style of work, apparatus,
34 business secret, or organizational structure that, if disclosed,
35 would adversely affect the taxpayer or the national defense.

36 (d) The members of the State Board of Equalization shall not
37 participate in the settlement of tax matters pursuant to this
38 section, except as provided in subdivision (e).

39 (e) (1) Any recommendation for settlement shall be approved
40 or disapproved by the board, itself, within 45 days of the

1 submission of that recommendation to the board. Any
2 recommendation for settlement that is not either approved or
3 disapproved by the board, itself, within 45 days of the
4 submission of that recommendation shall be deemed approved.
5 Upon approval of a recommendation for settlement, the matter
6 shall be referred back to the executive director or chief counsel in
7 accordance with the decision of the board.

8 (2) Disapproval of a recommendation for settlement shall be
9 made only by a majority vote of the board. Where the board
10 disapproves a recommendation for settlement, the matter shall be
11 remanded to board staff for further negotiation, and may be
12 resubmitted to the board, in the same manner and subject to the
13 same requirements as the initial submission, at the discretion of
14 the executive director or chief counsel.

15 (f) All settlements entered into pursuant to this section shall be
16 final and nonappealable, except upon a showing of fraud or
17 misrepresentation with respect to a material fact.

18 (g) Any proceedings undertaken by the board itself pursuant to
19 a settlement as described in this section shall be conducted in a
20 closed session or sessions. Except as provided in subdivision (c),
21 any settlement considered or entered into pursuant to this section
22 shall constitute confidential tax information for purposes of
23 Section 9255.

24 (h) This section shall apply only to civil tax matters in dispute
25 on or after the effective date of the act adding this subdivision.

26 (i) The Legislature finds that it is essential for fiscal purposes
27 that the settlement program authorized by this section be
28 expeditiously implemented. Accordingly, Chapter 3.5
29 (commencing with Section 11340) of Part 1 of Division 3 of Title
30 2 of the Government Code shall not apply to any determination,
31 rule, notice, or guideline established or issued by the board in
32 implementing and administering the settlement program
33 authorized by this section.

34 SEC. 8. Section 30178.3 is added to the Revenue and
35 Taxation Code, to read:

36 30178.3. Notwithstanding Section 30178, a refund of an
37 overpayment of any tax, penalty, or interest collected by the
38 board by means of levy, through the use of liens, or by other
39 enforcement procedures, shall be approved if a claim for a refund
40 is filed within three years of the date of an overpayment.

1 SEC. 9. Section 30459.1 of the Revenue and Taxation Code
2 is amended to read:

3 30459.1. (a) It is the intent of the Legislature that the State
4 Board of Equalization, its staff, and the Attorney General pursue
5 settlements as authorized under this section with respect to civil
6 tax matters in dispute that are the subject of protests, appeals, or
7 refund claims, consistent with a reasonable evaluation of the
8 costs and risks associated with litigation of these matters.

9 (b) (1) Except as provided in paragraph (3) and subject to
10 paragraph (2), the executive director or chief counsel, if
11 authorized by the executive director, of the board may
12 recommend to the State Board of Equalization, itself, a
13 settlement of any civil tax matter in dispute.

14 (2) No recommendation of settlement shall be submitted to the
15 board, itself, unless and until that recommendation has been
16 submitted by the executive director or chief counsel to the
17 Attorney General. Within 30 days of receiving that
18 recommendation, the Attorney General shall review the
19 recommendation and advise, in writing, the executive director or
20 chief counsel of the board of his or her conclusions as to whether
21 the recommendation is reasonable from an overall perspective.
22 The executive director or chief counsel shall, with each
23 recommendation of settlement submitted to the board, itself, also
24 submit the Attorney General's written conclusions obtained
25 pursuant to this paragraph.

26 (3) A settlement of any civil tax matter in dispute involving a
27 reduction of tax or penalties in settlement, the total of which
28 reduction of tax and penalties in settlement does not exceed five
29 thousand dollars (\$5,000), may be approved by the executive
30 director and chief counsel, jointly. The executive director shall
31 notify the board, itself, of any settlement approved pursuant to
32 this paragraph.

33 (c) Whenever a reduction of tax, or penalties, or total tax and
34 penalties in settlement in excess of five hundred dollars (\$500) is
35 approved pursuant to this section, there shall be placed on file,
36 for at least one year, in the office of the executive director of the
37 board a public record with respect to that settlement. The public
38 record shall include all of the following information:

39 (1) The name or names of the taxpayers who are parties to the
40 settlement.

1 (2) The total amount in dispute.

2 (3) The amount agreed to pursuant to the settlement.

3 (4) A summary of the reasons why the settlement is in the best
4 interests of the State of California.

5 (5) For any settlement approved by the board, itself, the
6 Attorney General's conclusion as to whether the recommendation
7 of settlement was reasonable from an overall perspective.

8 The public record shall not include any information that relates
9 to any trade secret, patent, process, style of work, apparatus,
10 business secret, or organizational structure that, if disclosed,
11 would adversely affect the taxpayer or the national defense.

12 (d) The members of the State Board of Equalization shall not
13 participate in the settlement of tax matters pursuant to this
14 section, except as provided in subdivision (e).

15 (e) (1) Any recommendation for settlement shall be approved
16 or disapproved by the board, itself, within 45 days of the
17 submission of that recommendation to the board. Any
18 recommendation for settlement that is not either approved or
19 disapproved by the board, itself, within 45 days of the
20 submission of that recommendation shall be deemed approved.
21 Upon approval of a recommendation for settlement, the matter
22 shall be referred back to the executive director or chief counsel in
23 accordance with the decision of the board.

24 (2) Disapproval of a recommendation for settlement shall be
25 made only by a majority vote of the board. Where the board
26 disapproves a recommendation for settlement, the matter shall be
27 remanded to board staff for further negotiation, and may be
28 resubmitted to the board, in the same manner and subject to the
29 same requirements as the initial submission, at the discretion of
30 the executive director or chief counsel.

31 (f) All settlements entered into pursuant to this section shall be
32 final and nonappealable, except upon a showing of fraud or
33 misrepresentation with respect to a material fact.

34 (g) Any proceedings undertaken by the board itself pursuant to
35 a settlement as described in this section shall be conducted in a
36 closed session or sessions. Except as provided in subdivision (c),
37 any settlement considered or entered into pursuant to this section
38 shall constitute confidential tax information for purposes of
39 Section 30455.

1 (h) This section shall apply only to civil tax matters in dispute
2 on or after the effective date of the act adding this subdivision.

3 (i) The Legislature finds that it is essential for fiscal purposes
4 that the settlement program authorized by this section be
5 expeditiously implemented. Accordingly, Chapter 3.5
6 (commencing with Section 11340) of Part 1 of Division 3 of Title
7 2 of the Government Code shall not apply to any determination,
8 rule, notice, or guideline established or issued by the board in
9 implementing and administering the settlement program
10 authorized by this section.

11 SEC. 10. Section 30459.15 is added to the Revenue and
12 Taxation Code, to read:

13 30459.15. (a) (1) Beginning on January 1, 2007, the
14 executive director and chief counsel of the board, or their
15 delegates, may compromise any final tax liability where the
16 reduction of tax is seven thousand five hundred dollars (\$7,500)
17 or less.

18 (2) Except as provided in paragraph (3), the board, upon
19 recommendation by its executive director and chief counsel,
20 jointly, may compromise a final tax liability involving a
21 reduction in tax in excess of seven thousand five hundred dollars
22 (\$7,500). Any recommendation for approval of an offer in
23 compromise that is not either approved or disapproved within 45
24 days of the submission of the recommendation shall be deemed
25 approved.

26 (3) The board, itself, may by resolution delegate to the
27 executive director and the chief counsel, jointly, the authority to
28 compromise a final tax liability in which the reduction of tax is in
29 excess of seven thousand five hundred dollars (\$7,500), but less
30 than ten thousand dollars (\$10,000).

31 (b) For purposes of this section, “a final tax liability” means
32 any final tax liability arising under Part 13 (commencing with
33 Section 30001), or related interest, additions to tax, penalties, or
34 other amounts assessed under this part.

35 (c) Offers in compromise shall be considered only for
36 liabilities that were generated by the following:

37 (1) A business that has been discontinued or transferred, where
38 the taxpayer making the offer no longer has a controlling interest
39 or association with the transferred business or has a controlling

1 interest or association with a similar type of business as the
2 transferred or discontinued business.

3 (2) A taxpayer that has purchased untaxed cigarettes or
4 tobacco products from out-of-state vendors for their own use or
5 consumption.

6 (d) Offers in compromise shall not be considered under the
7 following conditions:

8 (1) The taxpayer has been convicted of felony tax evasion
9 under this part during the liability period.

10 (2) The taxpayer has filed a statement under paragraph (3) of
11 subdivision (e) and continues to purchase untaxed cigarettes or
12 tobacco products from out-of-state vendors for their own use or
13 consumption.

14 (e) For amounts to be compromised under this section, the
15 following conditions shall exist:

16 (1) The taxpayer shall establish that:

17 (A) The amount offered in payment is the most that can be
18 expected to be paid or collected from the taxpayer's present
19 assets or income.

20 (B) The taxpayer does not have reasonable prospects of
21 acquiring increased income or assets that would enable the
22 taxpayer to satisfy a greater amount of the liability than the
23 amount offered, within a reasonable period of time.

24 (2) The board shall have determined that acceptance of the
25 compromise is in the best interest of the state.

26 (3) For liabilities generated in the manner described in
27 paragraph (2) of subdivision (c), the taxpayer shall file with the
28 board a statement, under penalty of perjury, that he or she will no
29 longer purchase untaxed cigarettes or tobacco products from
30 out-of-state vendors for his or her own use or consumption.

31 (f) A determination by the board that it would not be in the
32 best interest of the state to accept an offer in compromise in
33 satisfaction of a final tax liability shall not be subject to
34 administrative appeal or judicial review.

35 (g) (1) Offers for liabilities with a fraud or evasion penalty
36 shall require a minimum offer of the unpaid tax and fraud or
37 evasion penalty.

38 (2) The minimum offer may be waived if it can be shown that
39 the taxpayer making the offer was not the person responsible for
40 perpetrating the fraud or evasion. This authorization to waive

1 only applies to partnership accounts where the intent to commit
2 fraud or evasion can be clearly attributed to a partner of the
3 taxpayer.

4 (h) When an offer in compromise is either accepted or
5 rejected, or the terms and conditions of a compromise agreement
6 are fulfilled, the board shall notify the taxpayer in writing. In the
7 event an offer is rejected, the amount posted will either be
8 applied to the liability or refunded, at the discretion of the
9 taxpayer.

10 (i) When more than one taxpayer is liable for the debt, such as
11 with spouses or partnerships or other business combinations,
12 including, but not limited to, taxpayers who are liable through
13 dual determination or successor's liability, the acceptance of an
14 offer in compromise from one liable taxpayer shall reduce the
15 amount of the liability of the other taxpayers by the amount of
16 the accepted offer.

17 (j) Whenever a compromise of tax or penalties or total tax and
18 penalties in excess of five hundred dollars (\$500) is approved,
19 there shall be placed on file for at least one year in the office of
20 the executive director of the board a public record with respect to
21 that compromise. The public record shall include all of the
22 following information:

23 (1) The name of the taxpayer.

24 (2) The amount of unpaid tax and related penalties, additions
25 to tax, interest, or other amounts involved.

26 (3) The amount offered.

27 (4) A summary of the reason why the compromise is in the
28 best interest of the state.

29 The public record shall not include any information that relates
30 to any trade secrets, patent, process, style of work, apparatus,
31 business secret, or organizational structure, that if disclosed,
32 would adversely affect the taxpayer or violate the confidentiality
33 provisions of Section 30455. No list shall be prepared and no
34 releases distributed by the board in connection with these
35 statements.

36 (k) Any compromise made under this section may be
37 rescinded, all compromised liabilities may be reestablished,
38 without regard to any statute of limitations that otherwise may be
39 applicable, and no portion of the amount offered in compromise
40 refunded, if either of the following occurs:

1 (1) The board determines that any person did any of the
2 following acts regarding the making of the offer:

3 (A) Concealed from the board any property belonging to the
4 estate of any taxpayer or other person liable for the tax.

5 (B) Received, withheld, destroyed, mutilated, or falsified any
6 book, document, or record or made any false statement, relating
7 to the estate or financial condition of the taxpayer or other person
8 liable for the tax.

9 (2) The taxpayer fails to comply with any of the terms and
10 conditions relative to the offer.

11 (l) Any person who, in connection with any offer or
12 compromise under this section, or offer of that compromise to
13 enter into that agreement, willfully does either of the following
14 shall be guilty of a felony and, upon conviction, shall be fined
15 not more than fifty thousand dollars (\$50,000) or imprisoned in
16 the state prison, or both, together with the costs of investigation
17 and prosecution:

18 (1) Conceals from any officer or employee of this state any
19 property belonging to the estate of a taxpayer or other person
20 liable in respect of the tax.

21 (2) Receives, withholds, destroys, mutilates, or falsifies any
22 book, document, or record, or makes any false statement, relating
23 to the estate or financial condition of the taxpayer or other person
24 liable in respect of the tax.

25 (m) For purposes of this section, "person" means the taxpayer,
26 any member of the taxpayer's family, any corporation, agent,
27 fiduciary, or representative of, or any other individual or entity
28 acting on behalf of, the taxpayer, or any other corporation or
29 entity owned or controlled by the taxpayer, directly or indirectly,
30 or that owns or controls the taxpayer, directly or indirectly.

31 SEC. 11. Section 32402.2 is added to the Revenue and
32 Taxation Code, to read:

33 32402.2. Notwithstanding Section 32402, a refund of an
34 overpayment of any tax, penalty, or interest collected by the
35 board by means of levy, through the use of liens, or by other
36 enforcement procedures, shall be approved if a claim for a refund
37 is filed within three years of the date of an overpayment.

38 SEC. 12. Section 32471 of the Revenue and Taxation Code is
39 amended to read:

1 32471. (a) It is the intent of the Legislature that the State
2 Board of Equalization, its staff, and the Attorney General pursue
3 settlements as authorized under this section with respect to civil
4 tax matters in dispute that are the subject of protests, appeals, or
5 refund claims, consistent with a reasonable evaluation of the
6 costs and risks associated with litigation of these matters.

7 (b) (1) Except as provided in paragraph (3) and subject to
8 paragraph (2), the executive director or chief counsel, if
9 authorized by the executive director, of the board may
10 recommend to the State Board of Equalization, itself, a
11 settlement of any civil tax matter in dispute.

12 (2) No recommendation of settlement shall be submitted to the
13 board, itself, unless and until that recommendation has been
14 submitted by the executive director or chief counsel to the
15 Attorney General. Within 30 days of receiving that
16 recommendation, the Attorney General shall review the
17 recommendation and advise, in writing, the executive director or
18 chief counsel of the board of his or her conclusions as to whether
19 the recommendation is reasonable from an overall perspective.
20 The executive director or chief counsel shall, with each
21 recommendation of settlement submitted to the board, itself, also
22 submit the Attorney General's written conclusions obtained
23 pursuant to this paragraph.

24 (3) A settlement of any civil tax matter in dispute involving a
25 reduction of tax or penalties in settlement, the total of which
26 reduction of tax and penalties in settlement does not exceed five
27 thousand dollars (\$5,000), may be approved by the executive
28 director and chief counsel, jointly. The executive director shall
29 notify the board, itself, of any settlement approved pursuant to
30 this paragraph.

31 (c) Whenever a reduction of tax, or penalties, or total tax and
32 penalties in settlement in excess of five hundred dollars (\$500) is
33 approved pursuant to this section, there shall be placed on file,
34 for at least one year, in the office of the executive director of the
35 board a public record with respect to that settlement. The public
36 record shall include all of the following information:

37 (1) The name or names of the taxpayers who are parties to the
38 settlement.

39 (2) The total amount in dispute.

40 (3) The amount agreed to pursuant to the settlement.

1 (4) A summary of the reasons why the settlement is in the best
2 interests of the State of California.

3 (5) For any settlement approved by the board, itself, the
4 Attorney General's conclusion as to whether the recommendation
5 of settlement was reasonable from an overall perspective.

6 The public record shall not include any information that relates
7 to any trade secret, patent, process, style of work, apparatus,
8 business secret, or organizational structure that, if disclosed,
9 would adversely affect the taxpayer or the national defense.

10 (d) The members of the State Board of Equalization shall not
11 participate in the settlement of tax matters pursuant to this
12 section, except as provided in subdivision (e).

13 (e) (1) Any recommendation for settlement shall be approved
14 or disapproved by the board, itself, within 45 days of the
15 submission of that recommendation to the board. Any
16 recommendation for settlement that is not either approved or
17 disapproved by the board, itself, within 45 days of the
18 submission of that recommendation shall be deemed approved.
19 Upon approval of a recommendation for settlement, the matter
20 shall be referred back to the executive director or chief counsel in
21 accordance with the decision of the board.

22 (2) Disapproval of a recommendation for settlement shall be
23 made only by a majority vote of the board. Where the board
24 disapproves a recommendation for settlement, the matter shall be
25 remanded to board staff for further negotiation, and may be
26 resubmitted to the board, in the same manner and subject to the
27 same requirements as the initial submission, at the discretion of
28 the executive director or chief counsel.

29 (f) All settlements entered into pursuant to this section shall be
30 final and nonappealable, except upon a showing of fraud or
31 misrepresentation with respect to a material fact.

32 (g) Any proceedings undertaken by the board itself pursuant to
33 a settlement as described in this section shall be conducted in a
34 closed session or sessions. Except as provided in subdivision (c),
35 any settlement considered or entered into pursuant to this section
36 shall constitute confidential tax information for purposes of
37 Section 32455.

38 (h) This section shall apply only to civil tax matters in dispute
39 on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 13. Section 32471.5 is added to the Revenue and Taxation Code, to read:

32471.5. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars (\$7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 14 (commencing with Section 32001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated by a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

1 (d) Offers in compromise shall not be considered where the
2 taxpayer has been convicted of felony tax evasion under this part
3 during the liability period.

4 (e) For amounts to be compromised under this section, the
5 following conditions shall exist:

6 (1) The taxpayer shall establish that:

7 (A) The amount offered in payment is the most that can be
8 expected to be paid or collected from the taxpayer's present
9 assets or income.

10 (B) The taxpayer does not have reasonable prospects of
11 acquiring increased income or assets that would enable the
12 taxpayer to satisfy a greater amount of the liability than the
13 amount offered, within a reasonable period of time.

14 (2) The board shall have determined that acceptance of the
15 compromise is in the best interest of the state.

16 (f) A determination by the board that it would not be in the
17 best interest of the state to accept an offer in compromise in
18 satisfaction of a final tax liability shall not be subject to
19 administrative appeal or judicial review.

20 (g) (1) Offers for liabilities with a fraud or evasion penalty
21 shall require a minimum offer of the unpaid tax and fraud or
22 evasion penalty.

23 (2) The minimum offer may be waived if it can be shown that
24 the taxpayer making the offer was not the person responsible for
25 perpetrating the fraud or evasion. This authorization to waive
26 only applies to partnership accounts where the intent to commit
27 fraud or evasion can be clearly attributed to a partner of the
28 taxpayer.

29 (h) When an offer in compromise is either accepted or
30 rejected, or the terms and conditions of a compromise agreement
31 are fulfilled, the board shall notify the taxpayer in writing. In the
32 event an offer is rejected, the amount posted will either be
33 applied to the liability or refunded, at the discretion of the
34 taxpayer.

35 (i) When more than one taxpayer is liable for the debt, such as
36 with spouses or partnerships or other business combinations,
37 including, but not limited to, taxpayers who are liable through
38 dual determination or successor's liability, the acceptance of an
39 offer in compromise from one liable taxpayer shall reduce the

1 amount of the liability of the other taxpayers by the amount of
2 the accepted offer.

3 (j) Whenever a compromise of tax or penalties or total tax and
4 penalties in excess of five hundred dollars (\$500) is approved,
5 there shall be placed on file for at least one year in the office of
6 the executive director of the board a public record with respect to
7 that compromise. The public record shall include all of the
8 following information:

9 (1) The name of the taxpayer.

10 (2) The amount of unpaid tax and related penalties, additions
11 to tax, interest, or other amounts involved.

12 (3) The amount offered.

13 (4) A summary of the reason why the compromise is in the
14 best interest of the state.

15 The public record shall not include any information that relates
16 to any trade secrets, patent, process, style of work, apparatus,
17 business secret, or organizational structure, that if disclosed,
18 would adversely affect the taxpayer or violate the confidentiality
19 provisions of Section 32455. No list shall be prepared and no
20 releases distributed by the board in connection with these
21 statements.

22 (k) Any compromise made under this section may be
23 rescinded, all compromised liabilities may be reestablished,
24 without regard to any statute of limitations that otherwise may be
25 applicable, and no portion of the amount offered in compromise
26 refunded, if either of the following occurs:

27 (1) The board determines that any person did any of the
28 following acts regarding the making of the offer:

29 (A) Concealed from the board any property belonging to the
30 estate of any taxpayer or other person liable for the tax.

31 (B) Received, withheld, destroyed, mutilated, or falsified any
32 book, document, or record or made any false statement, relating
33 to the estate or financial condition of the taxpayer or other person
34 liable for the tax.

35 (2) The taxpayer fails to comply with any of the terms and
36 conditions relative to the offer.

37 (l) Any person who, in connection with any offer or
38 compromise under this section, or offer of that compromise to
39 enter into that agreement, willfully does either of the following
40 shall be guilty of a felony and, upon conviction, shall be fined

1 not more than fifty thousand dollars (\$50,000) or imprisoned in
2 the state prison, or both, together with the costs of investigation
3 and prosecution:

4 (1) Conceals from any officer or employee of this state any
5 property belonging to the estate of a taxpayer or other person
6 liable in respect of the tax.

7 (2) Receives, withholds, destroys, mutilates, or falsifies any
8 book, document, or record, or makes any false statement, relating
9 to the estate or financial condition of the taxpayer or other person
10 liable in respect of the tax.

11 (m) For purposes of this section, “person” means the taxpayer,
12 any member of the taxpayer’s family, any corporation, agent,
13 fiduciary, or representative of, or any other individual or entity
14 acting on behalf of, the taxpayer, or any other corporation or
15 entity owned or controlled by the taxpayer, directly or indirectly,
16 or that owns or controls the taxpayer, directly or indirectly.

17 SEC. 14. Section 38800 is added to the Revenue and
18 Taxation Code, to read:

19 38800. (a) (1) Beginning on January 1, 2007, the executive
20 director and chief counsel of the board, or their delegates, may
21 compromise any final tax liability where the reduction of tax is
22 seven thousand five hundred dollars (\$7,500) or less.

23 (2) Except as provided in paragraph (3), the board, upon
24 recommendation by its executive director and chief counsel,
25 jointly, may compromise a final tax liability involving a
26 reduction in tax in excess of seven thousand five hundred dollars
27 (\$7,500). Any recommendation for approval of an offer in
28 compromise that is not either approved or disapproved within 45
29 days of the submission of the recommendation shall be deemed
30 approved.

31 (3) The board, itself, may by resolution delegate to the
32 executive director and the chief counsel, jointly, the authority to
33 compromise a final tax liability in which the reduction of tax is in
34 excess of seven thousand five hundred dollars (\$7,500), but less
35 than ten thousand dollars (\$10,000).

36 (b) For purposes of this section, “a final tax liability” means
37 any final tax liability arising under Part 18.5 (commencing with
38 Section 38101), or related interest, additions to tax, penalties, or
39 other amounts assessed under this part.

1 (c) Offers in compromise shall be considered only for
2 liabilities that were generated from persons who no longer
3 harvest timber, or property owners that no longer harvest their
4 property, except where the taxpayer making the offer has their
5 primary residence located on the property that generated the
6 timber tax liability.

7 (d) Offers in compromise shall not be considered where the
8 taxpayer has been convicted of felony tax evasion under this part
9 during the liability period.

10 (e) For amounts to be compromised under this section, the
11 following conditions shall exist:

12 (1) The taxpayer shall establish that:

13 (A) The amount offered in payment is the most that can be
14 expected to be paid or collected from the taxpayer's present
15 assets or income.

16 (B) The taxpayer does not have reasonable prospects of
17 acquiring increased income or assets that would enable the
18 taxpayer to satisfy a greater amount of the liability than the
19 amount offered, within a reasonable period of time.

20 (2) The board shall have determined that acceptance of the
21 compromise is in the best interest of the state.

22 (f) A determination by the board that it would not be in the
23 best interest of the state to accept an offer in compromise in
24 satisfaction of a final tax liability shall not be subject to
25 administrative appeal or judicial review.

26 (g) (1) Offers for liabilities with a fraud or evasion penalty
27 shall require a minimum offer of the unpaid tax and fraud or
28 evasion penalty.

29 (2) The minimum offer may be waived if it can be shown that
30 the taxpayer making the offer was not the person responsible for
31 perpetrating the fraud or evasion. This authorization to waive
32 only applies to partnership accounts where the intent to commit
33 fraud or evasion can be clearly attributed to a partner of the
34 taxpayer.

35 (h) When an offer in compromise is either accepted or
36 rejected, or the terms and conditions of a compromise agreement
37 are fulfilled, the board shall notify the taxpayer in writing. In the
38 event an offer is rejected, the amount posted will either be
39 applied to the liability or refunded, at the discretion of the
40 taxpayer.

(i) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(j) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 38705. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

1 (2) The taxpayer fails to comply with any of the terms and
2 conditions relative to the offer.

3 (l) Any person who, in connection with any offer or
4 compromise under this section, or offer of that compromise to
5 enter into that agreement, willfully does either of the following
6 shall be guilty of a felony and, upon conviction, shall be fined
7 not more than fifty thousand dollars (\$50,000) or imprisoned in
8 the state prison, or both, together with the costs of investigation
9 and prosecution:

10 (1) Conceals from any officer or employee of this state any
11 property belonging to the estate of a taxpayer or other person
12 liable in respect of the tax.

13 (2) Receives, withholds, destroys, mutilates, or falsifies any
14 book, document, or record, or makes any false statement, relating
15 to the estate or financial condition of the taxpayer or other person
16 liable in respect of the tax.

17 (m) For purposes of this section, “person” means the taxpayer,
18 any member of the taxpayer’s family, any corporation, agent,
19 fiduciary, or representative of, or any other individual or entity
20 acting on behalf of, the taxpayer, or any other corporation or
21 entity owned or controlled by the taxpayer, directly or indirectly,
22 or that owns or controls the taxpayer, directly or indirectly.

23 SEC. 15. Section 40112.2 is added to the Revenue and
24 Taxation Code, to read:

25 40112.2. Notwithstanding Section 40112, a refund of an
26 overpayment of any surcharge, penalty, or interest collected by
27 the board by means of levy, through the use of liens, or by other
28 enforcement procedures, shall be approved if a claim for a refund
29 is filed within three years of the date of an overpayment.

30 SEC. 16. Section 40211 of the Revenue and Taxation Code is
31 amended to read:

32 40211. (a) It is the intent of the Legislature that the State
33 Board of Equalization, its staff, and the Attorney General pursue
34 settlements as authorized under this section with respect to
35 surcharge matters in dispute that are the subject of protests,
36 appeals, or refund claims, consistent with a reasonable evaluation
37 of the costs and risks associated with litigation of these matters.

38 (b) (1) Except as provided in paragraph (3) and subject to
39 paragraph (2), the executive director or chief counsel, if
40 authorized by the executive director, of the board may

1 recommend to the State Board of Equalization, itself, a
2 settlement of any surcharge matter in dispute.

3 (2) No recommendation of settlement shall be submitted to the
4 board, itself, unless and until that recommendation has been
5 submitted by the executive director or chief counsel to the
6 Attorney General. Within 30 days of receiving that
7 recommendation, the Attorney General shall review the
8 recommendation and advise, in writing, the executive director or
9 chief counsel of the board of his or her conclusions as to whether
10 the recommendation is reasonable from an overall perspective.
11 The executive director or chief counsel shall, with each
12 recommendation of settlement submitted to the board, itself, also
13 submit the Attorney General's written conclusions obtained
14 pursuant to this paragraph.

15 (3) A settlement of any civil surcharge matter in dispute
16 involving a reduction of surcharge or penalties in settlement, the
17 total of which reduction of surcharge and penalties in settlement
18 does not exceed five thousand dollars (\$5,000), may be approved
19 by the executive director and chief counsel, jointly. The
20 executive director shall notify the board, itself, of any settlement
21 approved pursuant to this paragraph.

22 (c) Whenever a reduction of surcharge, or penalties, or total
23 surcharge and penalties in settlement in excess of five hundred
24 dollars (\$500) is approved pursuant to this section, there shall be
25 placed on file, for at least one year, in the office of the executive
26 director of the board a public record with respect to that
27 settlement. The public record shall include all of the following
28 information:

29 (1) The name or names of the surcharge payers who are parties
30 to the settlement.

31 (2) The total amount in dispute.

32 (3) The amount agreed to pursuant to the settlement.

33 (4) A summary of the reasons why the settlement is in the best
34 interests of the State of California.

35 (5) For any settlement approved by the board, itself, the
36 Attorney General's conclusion as to whether the recommendation
37 of settlement was reasonable from an overall perspective.

38 The public record shall not include any information that relates
39 to any trade secret, patent, process, style of work, apparatus,
40 business secret, or organizational structure that, if disclosed,

1 would adversely affect the surcharge payer or the national
2 defense.

3 (d) The members of the State Board of Equalization shall not
4 participate in the settlement of surcharge matters pursuant to this
5 section, except as provided in subdivision (e).

6 (e) (1) Any recommendation for settlement shall be approved
7 or disapproved by the board, itself, within 45 days of the
8 submission of that recommendation to the board. Any
9 recommendation for settlement that is not either approved or
10 disapproved by the board, itself, within 45 days of the
11 submission of that recommendation shall be deemed approved.
12 Upon approval of a recommendation for settlement, the matter
13 shall be referred back to the executive director or chief counsel in
14 accordance with the decision of the board.

15 (2) Disapproval of a recommendation for settlement shall be
16 made only by a majority vote of the board. Where the board
17 disapproves a recommendation for settlement, the matter shall be
18 remanded to board staff for further negotiation, and may be
19 resubmitted to the board, in the same manner and subject to the
20 same requirements as the initial submission, at the discretion of
21 the executive director or chief counsel.

22 (f) All settlements entered into pursuant to this section shall be
23 final and nonappealable, except upon a showing of fraud or
24 misrepresentation with respect to a material fact.

25 (g) Any proceedings undertaken by the board itself pursuant to
26 a settlement as described in this section shall be conducted in a
27 closed session or sessions.

28 (h) This section shall apply only to surcharge matters in
29 dispute on or after the effective date of the act adding this
30 subdivision.

31 (i) The Legislature finds that it is essential for fiscal purposes
32 that the settlement program authorized by this section be
33 expeditiously implemented. Accordingly, Chapter 3.5
34 (commencing with Section 11340) of Part 1 of Division 3 of Title
35 2 of the Government Code shall not apply to any determination,
36 rule, notice, or guideline established or issued by the board in
37 implementing and administering the settlement program
38 authorized by this section.

39 SEC. 17. Section 40211.5 is added to the Revenue and
40 Taxation Code, to read:

1 40211.5. (a) (1) Beginning on January 1, 2007, the executive
2 director and chief counsel of the board, or their delegates, may
3 compromise any final surcharge liability where the reduction of
4 surcharges is seven thousand five hundred dollars (\$7,500) or
5 less.

6 (2) Except as provided in paragraph (3), the board, upon
7 recommendation by its executive director and chief counsel,
8 jointly, may compromise a final surcharge liability involving a
9 reduction in surcharges in excess of seven thousand five hundred
10 dollars (\$7,500). Any recommendation for approval of an offer in
11 compromise that is not either approved or disapproved within 45
12 days of the submission of the recommendation shall be deemed
13 approved.

14 (3) The board, itself, may by resolution delegate to the
15 executive director and the chief counsel, jointly, the authority to
16 compromise a final surcharge liability in which the reduction of
17 surcharges is in excess of seven thousand five hundred dollars
18 (\$7,500), but less than ten thousand dollars (\$10,000).

19 (b) For purposes of this section, “a final surcharge liability”
20 means any final surcharge liability arising under Part 19
21 (commencing with Section 40001), or related interest, additions
22 to surcharges, penalties, or other amounts assessed under this
23 part.

24 (c) Offers in compromise shall be considered only for
25 liabilities that were generated from a business that has been
26 discontinued or transferred, where the surcharge payer making
27 the offer no longer has a controlling interest or association with
28 the transferred business or has a controlling interest or
29 association with a similar type of business as the transferred or
30 discontinued business.

31 (d) Offers in compromise shall not be considered where the
32 surcharge payer has been convicted of felony tax evasion under
33 this part during the liability period.

34 (e) For amounts to be compromised under this section, the
35 following conditions shall exist:

36 (1) The surcharge payer shall establish that:

37 (A) The amount offered in payment is the most that can be
38 expected to be paid or collected from the surcharge payer’s
39 present assets or income.

1 (B) The surcharge payer does not have reasonable prospects of
2 acquiring increased income or assets that would enable the
3 surcharge payer to satisfy a greater amount of the liability than
4 the amount offered, within a reasonable period of time.

5 (2) The board shall have determined that acceptance of the
6 compromise is in the best interest of the state.

7 (f) A determination by the board that it would not be in the
8 best interest of the state to accept an offer in compromise in
9 satisfaction of a final surcharge liability shall not be subject to
10 administrative appeal or judicial review.

11 (g) (1) Offers for liabilities with a fraud or evasion penalty
12 shall require a minimum offer of the unpaid surcharge and fraud
13 or evasion penalty.

14 (2) The minimum offer may be waived if it can be shown that
15 the surcharge payer making the offer was not the person
16 responsible for perpetrating the fraud or evasion. This
17 authorization to waive only applies to partnership accounts where
18 the intent to commit fraud or evasion can be clearly attributed to
19 a partner of the surcharge payer.

20 (h) When an offer in compromise is either accepted or
21 rejected, or the terms and conditions of a compromise agreement
22 are fulfilled, the board shall notify the surcharge payer in writing.
23 In the event an offer is rejected, the amount posted will either be
24 applied to the liability or refunded, at the discretion of the
25 surcharge payer.

26 (i) When more than one surcharge payer is liable for the debt,
27 such as with spouses or partnerships or other business
28 combinations, including, but not limited to, surcharge payers who
29 are liable through dual determination or successor's liability, the
30 acceptance of an offer in compromise from one liable surcharge
31 payer shall reduce the amount of the liability of the other
32 surcharge payers by the amount of the accepted offer.

33 (j) Whenever a compromise of surcharges or penalties or total
34 surcharges and penalties in excess of five hundred dollars (\$500)
35 is approved, there shall be placed on file for at least one year in
36 the office of the executive director of the board a public record
37 with respect to that compromise. The public record shall include
38 all of the following information:

39 (1) The name of the surcharge payer.

1 (2) The amount of unpaid surcharges and related penalties,
2 additions to surcharges, interest, or other amounts involved.

3 (3) The amount offered.

4 (4) A summary of the reason why the compromise is in the
5 best interest of the state.

6 The public record shall not include any information that relates
7 to any trade secrets, patent, process, style of work, apparatus,
8 business secret, or organizational structure, that if disclosed,
9 would adversely affect the surcharge payer or violate the
10 confidentiality provisions of Section 40175. No list shall be
11 prepared and no releases distributed by the board in connection
12 with these statements.

13 (k) Any compromise made under this section may be
14 rescinded, all compromised liabilities may be reestablished,
15 without regard to any statute of limitations that otherwise may be
16 applicable, and no portion of the amount offered in compromise
17 refunded, if either of the following occurs:

18 (1) The board determines that any person did any of the
19 following acts regarding the making of the offer:

20 (A) Concealed from the board any property belonging to the
21 estate of any surcharge payer or other person liable for the
22 surcharge.

23 (B) Received, withheld, destroyed, mutilated, or falsified any
24 book, document, or record or made any false statement, relating
25 to the estate or financial condition of the surcharge payer or other
26 person liable for the surcharge.

27 (2) The surcharge payer fails to comply with any of the terms
28 and conditions relative to the offer.

29 (l) Any person who, in connection with any offer or
30 compromise under this section, or offer of that compromise to
31 enter into that agreement, willfully does either of the following
32 shall be guilty of a felony and, upon conviction, shall be fined
33 not more than fifty thousand dollars (\$50,000) or imprisoned in
34 the state prison, or both, together with the costs of investigation
35 and prosecution:

36 (1) Conceals from any officer or employee of this state any
37 property belonging to the estate of a surcharge payer or other
38 person liable in respect of the surcharge.

39 (2) Receives, withholds, destroys, mutilates, or falsifies any
40 book, document, or record, or makes any false statement, relating

1 to the estate or financial condition of the surcharge payer or other
2 person liable in respect of the surcharge.

3 (m) For purposes of this section, “person” means the taxpayer,
4 any member of the surcharge payer’s family, any corporation,
5 agent, fiduciary, or representative of, or any other individual or
6 entity acting on behalf of, the surcharge payer, or any other
7 corporation or entity owned or controlled by the surcharge payer,
8 directly or indirectly, or that owns or controls the surcharge
9 payer, directly or indirectly.

10 SEC. 18. Section 41101.2 is added to the Revenue and
11 Taxation Code, to read:

12 41101.2. Notwithstanding Section 41101, a refund of an
13 overpayment of any surcharge, penalty, or interest collected by
14 the board by means of levy, through the use of liens, or by other
15 enforcement procedures, shall be approved if a claim for a refund
16 is filed within three years of the date of an overpayment.

17 SEC. 19. Section 41171 of the Revenue and Taxation Code is
18 amended to read:

19 41171. (a) It is the intent of the Legislature that the State
20 Board of Equalization, its staff, and the Attorney General pursue
21 settlements as authorized under this section with respect to
22 surcharge matters in dispute that are the subject of protests,
23 appeals, or refund claims, consistent with a reasonable evaluation
24 of the costs and risks associated with litigation of these matters.

25 (b) (1) Except as provided in paragraph (3) and subject to
26 paragraph (2), the executive director or chief counsel, if
27 authorized by the executive director, of the board may
28 recommend to the State Board of Equalization, itself, a
29 settlement of any surcharge matter in dispute.

30 (2) No recommendation of settlement shall be submitted to the
31 board, itself, unless and until that recommendation has been
32 submitted by the executive director or chief counsel to the
33 Attorney General. Within 30 days of receiving that
34 recommendation, the Attorney General shall review the
35 recommendation and advise, in writing, the executive director or
36 chief counsel of the board of his or her conclusions as to whether
37 the recommendation is reasonable from an overall perspective.
38 The executive director or chief counsel shall, with each
39 recommendation of settlement submitted to the board, itself, also

1 submit the Attorney General's written conclusions obtained
2 pursuant to this paragraph.

3 (3) A settlement of any civil surcharge matter in dispute
4 involving a reduction of surcharge or penalties in settlement, the
5 total of which reduction of surcharge and penalties in settlement
6 does not exceed five thousand dollars (\$5,000), may be approved
7 by the executive director and chief counsel, jointly. The
8 executive director shall notify the board, itself, of any settlement
9 approved pursuant to this paragraph.

10 (c) Whenever a reduction of surcharge, or penalties, or total
11 surcharge and penalties in settlement in excess of five hundred
12 dollars (\$500) is approved pursuant to this section, there shall be
13 placed on file, for at least one year, in the office of the executive
14 director of the board a public record with respect to that
15 settlement. The public record shall include all of the following
16 information:

17 (1) The name or names of the surcharge payers who are parties
18 to the settlement.

19 (2) The total amount in dispute.

20 (3) The amount agreed to pursuant to the settlement.

21 (4) A summary of the reasons why the settlement is in the best
22 interests of the State of California.

23 (5) For any settlement approved by the board, itself, the
24 Attorney General's conclusion as to whether the recommendation
25 of settlement was reasonable from an overall perspective.

26 The public record shall not include any information that relates
27 to any trade secret, patent, process, style of work, apparatus,
28 business secret, or organizational structure that, if disclosed,
29 would adversely affect the surcharge payer or the national
30 defense.

31 (d) The members of the State Board of Equalization shall not
32 participate in the settlement of surcharge matters pursuant to this
33 section, except as provided in subdivision (e).

34 (e) (1) Any recommendation for settlement shall be approved
35 or disapproved by the board, itself, within 45 days of the
36 submission of that recommendation to the board. Any
37 recommendation for settlement that is not either approved or
38 disapproved by the board, itself, within 45 days of the
39 submission of that recommendation shall be deemed approved.
40 Upon approval of a recommendation for settlement, the matter

1 shall be referred back to the executive director or chief counsel in
2 accordance with the decision of the board.

3 (2) Disapproval of a recommendation for settlement shall be
4 made only by a majority vote of the board. Where the board
5 disapproves a recommendation for settlement, the matter shall be
6 remanded to board staff for further negotiation, and may be
7 resubmitted to the board, in the same manner and subject to the
8 same requirements as the initial submission, at the discretion of
9 the executive director or chief counsel.

10 (f) All settlements entered into pursuant to this section shall be
11 final and nonappealable, except upon a showing of fraud or
12 misrepresentation with respect to a material fact.

13 (g) Any proceedings undertaken by the board itself pursuant to
14 a settlement as described in this section shall be conducted in a
15 closed session or sessions.

16 (h) This section shall apply only to surcharge matters in
17 dispute on or after the effective date of the act adding this
18 subdivision.

19 (i) The Legislature finds that it is essential for fiscal purposes
20 that the settlement program authorized by this section be
21 expeditiously implemented. Accordingly, Chapter 3.5
22 (commencing with Section 11340) of Part 1 of Division 3 of Title
23 2 of the Government Code shall not apply to any determination,
24 rule, notice, or guideline established or issued by the board in
25 implementing and administering the settlement program
26 authorized by this section.

27 SEC. 20. Section 41171.5 is added to the Revenue and
28 Taxation Code, to read:

29 41171.5. (a) (1) Beginning on January 1, 2007, the executive
30 director and chief counsel of the board, or their delegates, may
31 compromise any final surcharge liability where the reduction of
32 surcharges is seven thousand five hundred dollars (\$7,500) or
33 less.

34 (2) Except as provided in paragraph (3), the board, upon
35 recommendation by its executive director and chief counsel,
36 jointly, may compromise a final surcharge liability involving a
37 reduction in surcharges in excess of seven thousand five hundred
38 dollars (\$7,500). Any recommendation for approval of an offer in
39 compromise that is not either approved or disapproved within 45

1 days of the submission of the recommendation shall be deemed
2 approved.

3 (3) The board, itself, may by resolution delegate to the
4 executive director and the chief counsel, jointly, the authority to
5 compromise a final surcharge liability in which the reduction of
6 surcharges is in excess of seven thousand five hundred dollars
7 (\$7,500), but less than ten thousand dollars (\$10,000).

8 (b) For purposes of this section, “a final surcharge liability”
9 means any final surcharge liability arising under Part 20
10 (commencing with Section 41001), or related interest, additions
11 to surcharges, penalties, or other amounts assessed under this
12 part.

13 (c) Offers in compromise shall be considered only for
14 liabilities that were generated from a business that has been
15 discontinued or transferred, where the surcharge payer making
16 the offer no longer has a controlling interest or association with
17 the transferred business or has a controlling interest or
18 association with a similar type of business as the transferred or
19 discontinued business.

20 (d) Offers in compromise shall not be considered where the
21 surcharge payer has been convicted of felony tax evasion under
22 this part during the liability period.

23 (e) For amounts to be compromised under this section, the
24 following conditions shall exist:

25 (1) The surcharge payer shall establish that:

26 (A) The amount offered in payment is the most that can be
27 expected to be paid or collected from the surcharge payer’s
28 present assets or income.

29 (B) The surcharge payer does not have reasonable prospects of
30 acquiring increased income or assets that would enable the
31 surcharge payer to satisfy a greater amount of the liability than
32 the amount offered, within a reasonable period of time.

33 (2) The board shall have determined that acceptance of the
34 compromise is in the best interest of the state.

35 (f) A determination by the board that it would not be in the
36 best interest of the state to accept an offer in compromise in
37 satisfaction of a final surcharge liability shall not be subject to
38 administrative appeal or judicial review.

1 (g) (1) Offers for liabilities with a fraud or evasion penalty
2 shall require a minimum offer of the unpaid surcharge and fraud
3 or evasion penalty.

4 (2) The minimum offer may be waived if it can be shown that
5 the surcharge payer making the offer was not the person
6 responsible for perpetrating the fraud or evasion. This
7 authorization to waive only applies to partnership accounts where
8 the intent to commit fraud or evasion can be clearly attributed to
9 a partner of the surcharge payer.

10 (h) When an offer in compromise is either accepted or
11 rejected, or the terms and conditions of a compromise agreement
12 are fulfilled, the board shall notify the surcharge payer in writing.
13 In the event an offer is rejected, the amount posted will either be
14 applied to the liability or refunded, at the discretion of the
15 surcharge payer.

16 (i) When more than one surcharge payer is liable for the debt,
17 such as with spouses or partnerships or other business
18 combinations, including, but not limited to, surcharge payers who
19 are liable through dual determination or successor's liability, the
20 acceptance of an offer in compromise from one liable surcharge
21 payer shall reduce the amount of the liability of the other
22 surcharge payers by the amount of the accepted offer.

23 (j) Whenever a compromise of surcharges or penalties or total
24 surcharges and penalties in excess of five hundred dollars (\$500)
25 is approved, there shall be placed on file for at least one year in
26 the office of the executive director of the board a public record
27 with respect to that compromise. The public record shall include
28 all of the following information:

29 (1) The name of the surcharge payer.

30 (2) The amount of unpaid surcharges and related penalties,
31 additions to surcharges, interest, or other amounts involved.

32 (3) The amount offered.

33 (4) A summary of the reason why the compromise is in the
34 best interest of the state.

35 The public record shall not include any information that relates
36 to any trade secrets, patent, process, style of work, apparatus,
37 business secret, or organizational structure, that if disclosed,
38 would adversely affect the surcharge payer or violate the
39 confidentiality provisions of Section 41131. No list shall be

1 prepared and no releases distributed by the board in connection
2 with these statements.

3 (k) Any compromise made under this section may be
4 rescinded, all compromised liabilities may be reestablished,
5 without regard to any statute of limitations that otherwise may be
6 applicable, and no portion of the amount offered in compromise
7 refunded, if either of the following occurs:

8 (1) The board determines that any person did any of the
9 following acts regarding the making of the offer:

10 (A) Concealed from the board any property belonging to the
11 estate of any surcharge payer or other person liable for the
12 surcharge.

13 (B) Received, withheld, destroyed, mutilated, or falsified any
14 book, document, or record or made any false statement, relating
15 to the estate or financial condition of the surcharge payer or other
16 person liable for the surcharge.

17 (2) The surcharge payer fails to comply with any of the terms
18 and conditions relative to the offer.

19 (l) Any person who, in connection with any offer or
20 compromise under this section, or offer of that compromise to
21 enter into that agreement, willfully does either of the following
22 shall be guilty of a felony and, upon conviction, shall be fined
23 not more than fifty thousand dollars (\$50,000) or imprisoned in
24 the state prison, or both, together with the costs of investigation
25 and prosecution:

26 (1) Conceals from any officer or employee of this state any
27 property belonging to the estate of a surcharge payer or other
28 person liable in respect of the surcharge.

29 (2) Receives, withholds, destroys, mutilates, or falsifies any
30 book, document, or record, or makes any false statement, relating
31 to the estate or financial condition of the surcharge payer or other
32 person liable in respect of the surcharge.

33 (m) For purposes of this section, "person" means the surcharge
34 payer, any member of the surcharge payer's family, any
35 corporation, agent, fiduciary, or representative of, or any other
36 individual or entity acting on behalf of, the surcharge payer, or
37 any other corporation or entity owned or controlled by the
38 surcharge payer, directly or indirectly, or that owns or controls
39 the surcharge payer, directly or indirectly.

1 SEC. 21. Section 43452.2 is added to the Revenue and
2 Taxation Code, to read:

3 43452.2. Notwithstanding Section 43452, a refund of an
4 overpayment of any tax, penalty, or interest collected by the
5 board by means of levy, through the use of liens, or by other
6 enforcement procedures, shall be approved if a claim for a refund
7 is filed within three years of the date of an overpayment.

8 SEC. 22. Section 43522 of the Revenue and Taxation Code is
9 amended to read:

10 43522. (a) It is the intent of the Legislature that the State
11 Board of Equalization, its staff, and the Attorney General pursue
12 settlements as authorized under this section with respect to civil
13 tax matters in dispute that are the subject of protests, appeals, or
14 refund claims, consistent with a reasonable evaluation of the
15 costs and risks associated with litigation of these matters.

16 (b) (1) Except as provided in paragraph (3) and subject to
17 paragraph (2), the executive director or chief counsel, if
18 authorized by the executive director, of the board may
19 recommend to the State Board of Equalization, itself, a
20 settlement of any civil tax matter in dispute which arises under
21 Section 105190 or 105310 of the Health and Safety Code.

22 (2) No recommendation of settlement shall be submitted to the
23 board, itself, unless and until that recommendation has been
24 submitted by the executive director or chief counsel to the
25 Attorney General. Within 30 days of receiving that
26 recommendation, the Attorney General shall review the
27 recommendation and advise, in writing, the executive director or
28 chief counsel of the board of his or her conclusions as to whether
29 the recommendation is reasonable from an overall perspective.
30 The executive director or chief counsel shall, with each
31 recommendation of settlement submitted to the board, itself, also
32 submit the Attorney General's written conclusions obtained
33 pursuant to this paragraph.

34 (3) A settlement of any civil tax matter in dispute involving a
35 reduction of tax or penalties in settlement, the total of which
36 reduction of tax and penalties in settlement does not exceed five
37 thousand dollars (\$5,000), may be approved by the executive
38 director and chief counsel, jointly. The executive director shall
39 notify the board, itself, of any settlement approved pursuant to
40 this paragraph.

(c) Whenever a reduction of tax, or penalties, or total tax and penalties in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) For any settlement approved by the board, itself, the Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board, itself, within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

1 (f) All settlements entered into pursuant to this section shall be
2 final and nonappealable, except upon a showing of fraud or
3 misrepresentation with respect to a material fact.

4 (g) Any proceedings undertaken by the board itself pursuant to
5 a settlement as described in this section shall be conducted in a
6 closed session or sessions. Except as provided in subdivision (c),
7 any settlement considered or entered into pursuant to this section
8 shall constitute confidential tax information for purposes of
9 Section 43651.

10 (h) This section shall apply only to civil tax matters in dispute
11 on or after the effective date of the act adding this subdivision.

12 (i) The Legislature finds that it is essential for fiscal purposes
13 that the settlement program authorized by this section be
14 expeditiously implemented. Accordingly, Chapter 3.5
15 (commencing with Section 11340) of Part 1 of Division 3 of Title
16 2 of the Government Code shall not apply to any determination,
17 rule, notice, or guideline established or issued by the board in
18 implementing and administering the settlement program
19 authorized by this section.

20 SEC. 23. Section 43522.5 is added to the Revenue and
21 Taxation Code, to read:

22 43522.5. (a) (1) Beginning on January 1, 2007, the executive
23 director and chief counsel of the board, or their delegates, may
24 compromise any final tax liability where the reduction of tax is
25 seven thousand five hundred dollars (\$7,500) or less.

26 (2) Except as provided in paragraph (3), the board, upon
27 recommendation by its executive director and chief counsel,
28 jointly, may compromise a final tax liability involving a
29 reduction in tax in excess of seven thousand five hundred dollars
30 (\$7,500). Any recommendation for approval of an offer in
31 compromise that is not either approved or disapproved within 45
32 days of the submission of the recommendation shall be deemed
33 approved.

34 (3) The board, itself, may by resolution delegate to the
35 executive director and the chief counsel, jointly, the authority to
36 compromise a final tax liability in which the reduction of tax is in
37 excess of seven thousand five hundred dollars (\$7,500), but less
38 than ten thousand dollars (\$10,000).

39 (b) For purposes of this section, “a final tax liability” means
40 any final tax liability arising under Part 22 (commencing with

1 Section 43001), or related interest, additions to tax, penalties, or
2 other amounts assessed under this part.

3 (c) Offers in compromise shall be considered only for
4 liabilities that were generated from a business that has been
5 discontinued or transferred, where the taxpayer making the offer
6 no longer has a controlling interest or association with the
7 transferred business or has a controlling interest or association
8 with a similar type of business as the transferred or discontinued
9 business.

10 (d) Offers in compromise shall not be considered where the
11 taxpayer has been convicted of felony tax evasion under this part
12 during the liability period.

13 (e) For amounts to be compromised under this section, the
14 following conditions shall exist:

15 (1) The taxpayer shall establish that:

16 (A) The amount offered in payment is the most that can be
17 expected to be paid or collected from the taxpayer's present
18 assets or income.

19 (B) The taxpayer does not have reasonable prospects of
20 acquiring increased income or assets that would enable the
21 taxpayer to satisfy a greater amount of the liability than the
22 amount offered, within a reasonable period of time.

23 (2) The board shall have determined that acceptance of the
24 compromise is in the best interest of the state.

25 (f) A determination by the board that it would not be in the
26 best interest of the state to accept an offer in compromise in
27 satisfaction of a final tax liability shall not be subject to
28 administrative appeal or judicial review.

29 (g) (1) Offers for liabilities with a fraud or evasion penalty
30 shall require a minimum offer of the unpaid tax and fraud or
31 evasion penalty.

32 (2) The minimum offer may be waived if it can be shown that
33 the taxpayer making the offer was not the person responsible for
34 perpetrating the fraud or evasion. This authorization to waive
35 only applies to partnership accounts where the intent to commit
36 fraud or evasion can be clearly attributed to a partner of the
37 taxpayer.

38 (h) When an offer in compromise is either accepted or
39 rejected, or the terms and conditions of a compromise agreement
40 are fulfilled, the board shall notify the taxpayer in writing. In the

1 event an offer is rejected, the amount posted will either be
2 applied to the liability or refunded, at the discretion of the
3 taxpayer.

4 (i) When more than one taxpayer is liable for the debt, such as
5 with spouses or partnerships or other business combinations,
6 including, but not limited to, taxpayers who are liable through
7 dual determination or successor's liability, the acceptance of an
8 offer in compromise from one liable taxpayer shall reduce the
9 amount of the liability of the other taxpayers by the amount of
10 the accepted offer.

11 (j) Whenever a compromise of tax or penalties or total tax and
12 penalties in excess of five hundred dollars (\$500) is approved,
13 there shall be placed on file for at least one year in the office of
14 the executive director of the board a public record with respect to
15 that compromise. The public record shall include all of the
16 following information:

17 (1) The name of the taxpayer.

18 (2) The amount of unpaid tax and related penalties, additions
19 to tax, interest, or other amounts involved.

20 (3) The amount offered.

21 (4) A summary of the reason why the compromise is in the
22 best interest of the state.

23 The public record shall not include any information that relates
24 to any trade secrets, patent, process, style of work, apparatus,
25 business secret, or organizational structure, that if disclosed,
26 would adversely affect the taxpayer or violate the confidentiality
27 provisions of Section 43651. No list shall be prepared and no
28 releases distributed by the board in connection with these
29 statements.

30 (k) Any compromise made under this section may be
31 rescinded, all compromised liabilities may be reestablished,
32 without regard to any statute of limitations that otherwise may be
33 applicable, and no portion of the amount offered in compromise
34 refunded, if either of the following occurs:

35 (1) The board determines that any person did any of the
36 following acts regarding the making of the offer:

37 (A) Concealed from the board any property belonging to the
38 estate of any taxpayer or other person liable for the tax.

39 (B) Received, withheld, destroyed, mutilated, or falsified any
40 book, document, or record or made any false statement, relating

1 to the estate or financial condition of the taxpayer or other person
2 liable for the tax.

3 (2) The taxpayer fails to comply with any of the terms and
4 conditions relative to the offer.

5 (l) Any person who, in connection with any offer or
6 compromise under this section, or offer of that compromise to
7 enter into that agreement, willfully does either of the following
8 shall be guilty of a felony and, upon conviction, shall be fined
9 not more than fifty thousand dollars (\$50,000) or imprisoned in
10 the state prison, or both, together with the costs of investigation
11 and prosecution:

12 (1) Conceals from any officer or employee of this state any
13 property belonging to the estate of a taxpayer or other person
14 liable in respect of the tax.

15 (2) Receives, withholds, destroys, mutilates, or falsifies any
16 book, document, or record, or makes any false statement, relating
17 to the estate or financial condition of the taxpayer or other person
18 liable in respect of the tax.

19 (m) For purposes of this section, “person” means the taxpayer,
20 any member of the taxpayer’s family, any corporation, agent,
21 fiduciary, or representative of, or any other individual or entity
22 acting on behalf of, the taxpayer, or any other corporation or
23 entity owned or controlled by the taxpayer, directly or indirectly,
24 or that owns or controls the taxpayer, directly or indirectly.

25 SEC. 24. Section 45652.2 is added to the Revenue and
26 Taxation Code, to read:

27 45652.2. Notwithstanding Section 45652, a refund of an
28 overpayment of any fee, penalty, or interest collected by the
29 board by means of levy, through the use of liens, or by other
30 enforcement procedures, shall be approved if a claim for a refund
31 is filed within three years of the date of an overpayment.

32 SEC. 25. Section 45867 of the Revenue and Taxation Code is
33 amended to read:

34 45867. (a) It is the intent of the Legislature that the State
35 Board of Equalization, its staff, and the Attorney General pursue
36 settlements as authorized under this section with respect to fee
37 matters in dispute that are the subject of protests, appeals, or
38 refund claims, consistent with a reasonable evaluation of the
39 costs and risks associated with litigation of these matters.

1 (b) (1) Except as provided in paragraph (3) and subject to
2 paragraph (2), the executive director or chief counsel, if
3 authorized by the executive director, of the board may
4 recommend to the State Board of Equalization, itself, a
5 settlement of any fee matter in dispute.

6 (2) No recommendation of settlement shall be submitted to the
7 board, itself, unless and until that recommendation has been
8 submitted by the executive director or chief counsel to the
9 Attorney General. Within 30 days of receiving that
10 recommendation, the Attorney General shall review the
11 recommendation and advise, in writing, the executive director or
12 chief counsel of the board of his or her conclusions as to whether
13 the recommendation is reasonable from an overall perspective.
14 The executive director or chief counsel shall, with each
15 recommendation of settlement submitted to the board, itself, also
16 submit the Attorney General's written conclusions obtained
17 pursuant to this paragraph.

18 (3) A settlement of any civil fee matter in dispute involving a
19 reduction of fee or penalties in settlement, the total of which
20 reduction of fee and penalties in settlement does not exceed five
21 thousand dollars (\$5,000), may be approved by the executive
22 director and chief counsel, jointly. The executive director shall
23 notify the board, itself, of any settlement approved pursuant to
24 this paragraph.

25 (c) Whenever a reduction of fees, or penalties, or total fees and
26 penalties in settlement in excess of five hundred dollars (\$500) is
27 approved pursuant to this section, there shall be placed on file,
28 for at least one year, in the office of the executive director of the
29 board a public record with respect to that settlement. The public
30 record shall include all of the following information:

31 (1) The name or names of the fee payers who are parties to the
32 settlement.

33 (2) The total amount in dispute.

34 (3) The amount agreed to pursuant to the settlement.

35 (4) A summary of the reasons why the settlement is in the best
36 interests of the State of California.

37 (5) For any settlement approved by the board, itself, the
38 Attorney General's conclusion as to whether the recommendation
39 of settlement was reasonable from an overall perspective.

1 The public record shall not include any information that relates
2 to any trade secret, patent, process, style of work, apparatus,
3 business secret, or organizational structure that, if disclosed,
4 would adversely affect the fee payer or the national defense.

5 (d) The members of the State Board of Equalization shall not
6 participate in the settlement of fee matters pursuant to this
7 section, except as provided in subdivision (e).

8 (e) (1) Any recommendation for settlement shall be approved
9 or disapproved by the board, itself, within 45 days of the
10 submission of that recommendation to the board. Any
11 recommendation for settlement that is not either approved or
12 disapproved by the board, itself, within 45 days of the
13 submission of that recommendation shall be deemed approved.
14 Upon approval of a recommendation for settlement, the matter
15 shall be referred back to the executive director or chief counsel in
16 accordance with the decision of the board.

17 (2) Disapproval of a recommendation for settlement shall be
18 made only by a majority vote of the board. Where the board
19 disapproves a recommendation for settlement, the matter shall be
20 remanded to board staff for further negotiation, and may be
21 resubmitted to the board, in the same manner and subject to the
22 same requirements as the initial submission, at the discretion of
23 the executive director or chief counsel.

24 (f) All settlements entered into pursuant to this section shall be
25 final and nonappealable, except upon a showing of fraud or
26 misrepresentation with respect to a material fact.

27 (g) Any proceedings undertaken by the board itself pursuant to
28 a settlement as described in this section shall be conducted in a
29 closed session or sessions. Except as provided in subdivision (c),
30 any settlement considered or entered into pursuant to this section
31 shall constitute confidential information for purposes of Section
32 45982.

33 (h) This section shall apply only to fee matters in dispute on or
34 after the effective date of the act adding this subdivision.

35 (i) The Legislature finds that it is essential for fiscal purposes
36 that the settlement program authorized by this section be
37 expeditiously implemented. Accordingly, Chapter 3.5
38 (commencing with Section 11340) of Part 1 of Division 3 of Title
39 2 of the Government Code shall not apply to any determination,
40 rule, notice, or guideline established or issued by the board in

1 implementing and administering the settlement program
2 authorized by this section.

3 SEC. 26. Section 45867.5 is added to the Revenue and
4 Taxation Code, to read:

5 45867.5. (a) (1) Beginning on January 1, 2007, the executive
6 director and chief counsel of the board, or their delegates, may
7 compromise any final fee liability where the reduction of fees is
8 seven thousand five hundred dollars (\$7,500) or less.

9 (2) Except as provided in paragraph (3), the board, upon
10 recommendation by its executive director and chief counsel,
11 jointly, may compromise a final fee liability involving a
12 reduction in fees in excess of seven thousand five hundred
13 dollars (\$7,500). Any recommendation for approval of an offer in
14 compromise that is not either approved or disapproved within 45
15 days of the submission of the recommendation shall be deemed
16 approved.

17 (3) The board, itself, may by resolution delegate to the
18 executive director and the chief counsel, jointly, the authority to
19 compromise a final fee liability in which the reduction of fees is
20 in excess of seven thousand five hundred dollars (\$7,500), but
21 less than ten thousand dollars (\$10,000).

22 (b) For purposes of this section, “a final fee liability” means
23 any final fee liability arising under Part 23 (commencing with
24 Section 45001), or related interest, additions to fees, penalties, or
25 other amounts assessed under this part.

26 (c) Offers in compromise shall be considered only for
27 liabilities that were generated from a business that has been
28 discontinued or transferred, where the fee payer making the offer
29 no longer has a controlling interest or association with the
30 transferred business or has a controlling interest or association
31 with a similar type of business as the transferred or discontinued
32 business.

33 (d) Offers in compromise shall not be considered where the
34 fee payer has been convicted of felony tax evasion under this part
35 during the liability period.

36 (e) For amounts to be compromised under this section, the
37 following conditions shall exist:

38 (1) The fee payer shall establish that:

1 (A) The amount offered in payment is the most that can be
2 expected to be paid or collected from the fee payer's present
3 assets or income.

4 (B) The fee payer does not have reasonable prospects of
5 acquiring increased income or assets that would enable the fee
6 payer to satisfy a greater amount of the liability than the amount
7 offered, within a reasonable period of time.

8 (2) The board shall have determined that acceptance of the
9 compromise is in the best interest of the state.

10 (f) A determination by the board that it would not be in the
11 best interest of the state to accept an offer in compromise in
12 satisfaction of a final fee liability shall not be subject to
13 administrative appeal or judicial review.

14 (g) (1) Offers for liabilities with a fraud or evasion penalty
15 shall require a minimum offer of the unpaid fee and fraud or
16 evasion penalty.

17 (2) The minimum offer may be waived if it can be shown that
18 the fee payer making the offer was not the person responsible for
19 perpetrating the fraud or evasion. This authorization to waive
20 only applies to partnership accounts where the intent to commit
21 fraud or evasion can be clearly attributed to a partner of the fee
22 payer.

23 (h) When an offer in compromise is either accepted or
24 rejected, or the terms and conditions of a compromise agreement
25 are fulfilled, the board shall notify the fee payer in writing. In the
26 event an offer is rejected, the amount posted will either be
27 applied to the liability or refunded, at the discretion of the fee
28 payer.

29 (i) When more than one fee payer is liable for the debt, such as
30 with spouses or partnerships or other business combinations,
31 including, but not limited to, fee payers who are liable through
32 dual determination or successor's liability, the acceptance of an
33 offer in compromise from one liable fee payer shall reduce the
34 amount of the liability of the other fee payers by the amount of
35 the accepted offer.

36 (j) Whenever a compromise of fees or penalties or total fees
37 and penalties in excess of five hundred dollars (\$500) is
38 approved, there shall be placed on file for at least one year in the
39 office of the executive director of the board a public record with

1 respect to that compromise. The public record shall include all of
2 the following information:

- 3 (1) The name of the fee payer.
- 4 (2) The amount of unpaid fees and related penalties, additions
5 to fee, interest, or other amounts involved.
- 6 (3) The amount offered.
- 7 (4) A summary of the reason why the compromise is in the
8 best interest of the state.

9 The public record shall not include any information that relates
10 to any trade secrets, patent, process, style of work, apparatus,
11 business secret, or organizational structure, that if disclosed,
12 would adversely affect the fee payer or violate the confidentiality
13 provisions of Section 45855. No list shall be prepared and no
14 releases distributed by the board in connection with these
15 statements.

16 (k) Any compromise made under this section may be
17 rescinded, all compromised liabilities may be reestablished,
18 without regard to any statute of limitations that otherwise may be
19 applicable, and no portion of the amount offered in compromise
20 refunded, if either of the following occurs:

21 (1) The board determines that any person did any of the
22 following acts regarding the making of the offer:

23 (A) Concealed from the board any property belonging to the
24 estate of any fee payer or other person liable for the fee.

25 (B) Received, withheld, destroyed, mutilated, or falsified any
26 book, document, or record or made any false statement, relating
27 to the estate or financial condition of the fee payer or other
28 person liable for the fee.

29 (2) The fee payer fails to comply with any of the terms and
30 conditions relative to the offer.

31 (l) Any person who, in connection with any offer or
32 compromise under this section, or offer of that compromise to
33 enter into that agreement, willfully does either of the following
34 shall be guilty of a felony and, upon conviction, shall be fined
35 not more than fifty thousand dollars (\$50,000) or imprisoned in
36 the state prison, or both, together with the costs of investigation
37 and prosecution:

38 (1) Conceals from any officer or employee of this state any
39 property belonging to the estate of a fee payer or other person
40 liable in respect of the fee.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the fee payer or other person liable in respect of the fee.

(m) For purposes of this section, “person” means the fee payer, any member of the fee payer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the fee payer, or any other corporation or entity owned or controlled by the fee payer, directly or indirectly, or that owns or controls the fee payer, directly or indirectly.

SEC. 27. Section 46502.2 is added to the Revenue and Taxation Code, to read:

46502.2. Notwithstanding Section 46502, a refund of an overpayment of any fee, penalty, or interest collected by the board by means of levy, through the use of liens, or by other enforcement procedures, shall be approved if a claim for a refund is filed within three years of the date of an overpayment.

SEC. 28. Section 46622 of the Revenue and Taxation Code is amended to read:

46622. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to fee matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil fee matter in dispute.

(2) No recommendation of settlement shall be submitted to the board, itself, unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective.

The executive director or chief counsel shall, with each

1 recommendation of settlement submitted to the board, itself, also
2 submit the Attorney General's written conclusions obtained
3 pursuant to this paragraph.

4 (3) A settlement of any civil fee matter in dispute involving a
5 reduction of fee or penalties in settlement, the total of which
6 reduction of fee and penalties in settlement does not exceed five
7 thousand dollars (\$5,000), may be approved by the executive
8 director and chief counsel, jointly. The executive director shall
9 notify the board, itself, of any settlement approved pursuant to
10 this paragraph.

11 (c) Whenever a reduction of fee, or penalties, or total fees and
12 penalties in settlement in excess of five hundred dollars (\$500) is
13 approved pursuant to this section, there shall be placed on file,
14 for at least one year, in the office of the executive director of the
15 board a public record with respect to that settlement. The public
16 record shall include all of the following information:

17 (1) The name or names of the fee payers who are parties to the
18 settlement.

19 (2) The total amount in dispute.

20 (3) The amount agreed to pursuant to the settlement.

21 (4) A summary of the reasons why the settlement is in the best
22 interests of the State of California.

23 (5) For any settlement approved by the board, itself, the
24 Attorney General's conclusion as to whether the recommendation
25 of settlement was reasonable from an overall perspective.

26 The public record shall not include any information that relates
27 to any trade secret, patent, process, style of work, apparatus,
28 business secret, or organizational structure that, if disclosed,
29 would adversely affect the fee payer or the national defense.

30 (d) The members of the State Board of Equalization shall not
31 participate in the settlement of fee matters pursuant to this
32 section, except as provided in subdivision (e).

33 (e) (1) Any recommendation of settlement shall be approved
34 or disapproved by the board, itself, within 45 days of the
35 submission of that recommendation to the board. Any
36 recommendation for settlement that is not either approved or
37 disapproved by the board, itself, within 45 days of the
38 submission of that recommendation shall be deemed approved.
39 Upon approval of a recommendation for settlement, the matter

1 shall be referred back to the executive director or chief counsel in
2 accordance with the decision of the board.

3 (2) Disapproval of a recommendation for settlement shall be
4 made only by a majority vote of the board. Where the board
5 disapproves a recommendation for settlement, the matter shall be
6 remanded to board staff for further negotiation, and may be
7 resubmitted to the board, in the same manner and subject to the
8 same requirements as the initial submission, at the discretion of
9 the executive director or chief counsel.

10 (f) All settlements entered into pursuant to this section shall be
11 final and nonappealable, except upon a showing of fraud or
12 misrepresentation with respect to a material fact.

13 (g) Any proceedings undertaken by the board itself pursuant to
14 a settlement as described in this section shall be conducted in a
15 closed session or sessions.

16 (h) This section shall apply only to fee matters in dispute on or
17 after the effective date of the act adding this subdivision.

18 (i) The Legislature finds that it is essential for fiscal purposes
19 that the settlement program authorized by this section be
20 expeditiously implemented. Accordingly, Chapter 3.5
21 (commencing with Section 11340) of Part 1 of Division 3 of Title
22 2 of the Government Code shall not apply to any determination,
23 rule, notice, or guideline established or issued by the board in
24 implementing and administering the settlement program
25 authorized by this section.

26 SEC. 29. Section 46628 is added to the Revenue and
27 Taxation Code, to read:

28 46628. (a) (1) Beginning on January 1, 2007, the executive
29 director and chief counsel of the board, or their delegates, may
30 compromise any final fee liability where the reduction of fees is
31 seven thousand five hundred dollars (\$7,500) or less.

32 (2) Except as provided in paragraph (3), the board, upon
33 recommendation by its executive director and chief counsel,
34 jointly, may compromise a final fee liability involving a
35 reduction in fees in excess of seven thousand five hundred
36 dollars (\$7,500). Any recommendation for approval of an offer in
37 compromise that is not either approved or disapproved within 45
38 days of the submission of the recommendation shall be deemed
39 approved.

1 (3) The board, itself, may by resolution delegate to the
2 executive director and the chief counsel, jointly, the authority to
3 compromise a final fee liability in which the reduction of fees is
4 in excess of seven thousand five hundred dollars (\$7,500), but
5 less than ten thousand dollars (\$10,000).

6 (b) For purposes of this section, “a final fee liability” means
7 any final fee liability arising under Part 24 (commencing with
8 Section 46001), or related interest, additions to fees, penalties, or
9 other amounts assessed under this part.

10 (c) Offers in compromise shall be considered only for
11 liabilities that were generated from a business that has been
12 discontinued or transferred, where the fee payer making the offer
13 no longer has a controlling interest or association with the
14 transferred business or has a controlling interest or association
15 with a similar type of business as the transferred or discontinued
16 business.

17 (d) Offers in compromise shall not be considered where the
18 fee payer has been convicted of felony tax evasion under this part
19 during the liability period.

20 (e) For amounts to be compromised under this section, the
21 following conditions shall exist:

22 (1) The fee payer shall establish that:

23 (A) The amount offered in payment is the most that can be
24 expected to be paid or collected from the fee payer’s present
25 assets or income.

26 (B) The fee payer does not have reasonable prospects of
27 acquiring increased income or assets that would enable the fee
28 payer to satisfy a greater amount of the liability than the amount
29 offered, within a reasonable period of time.

30 (2) The board shall have determined that acceptance of the
31 compromise is in the best interest of the state.

32 (f) A determination by the board that it would not be in the
33 best interest of the state to accept an offer in compromise in
34 satisfaction of a final fee liability shall not be subject to
35 administrative appeal or judicial review.

36 (g) (1) Offers for liabilities with a fraud or evasion penalty
37 shall require a minimum offer of the unpaid fee and fraud or
38 evasion penalty.

39 (2) The minimum offer may be waived if it can be shown that
40 the fee payer making the offer was not the person responsible for

1 perpetrating the fraud or evasion. This authorization to waive
2 only applies to partnership accounts where the intent to commit
3 fraud or evasion can be clearly attributed to a partner of the fee
4 payer.

5 (h) When an offer in compromise is either accepted or
6 rejected, or the terms and conditions of a compromise agreement
7 are fulfilled, the board shall notify the fee payer in writing. In the
8 event an offer is rejected, the amount posted will either be
9 applied to the liability or refunded, at the discretion of the fee
10 payer.

11 (i) When more than one fee payer is liable for the debt, such as
12 with spouses or partnerships or other business combinations,
13 including, but not limited to, fee payers who are liable through
14 dual determination or successor's liability, the acceptance of an
15 offer in compromise from one liable fee payer shall reduce the
16 amount of the liability of the other fee payers by the amount of
17 the accepted offer.

18 (j) Whenever a compromise of fees or penalties or total fees
19 and penalties in excess of five hundred dollars (\$500) is
20 approved, there shall be placed on file for at least one year in the
21 office of the executive director of the board a public record with
22 respect to that compromise. The public record shall include all of
23 the following information:

24 (1) The name of the fee payer.

25 (2) The amount of unpaid fees and related penalties, additions
26 to fees, interest, or other amounts involved.

27 (3) The amount offered.

28 (4) A summary of the reason why the compromise is in the
29 best interest of the state.

30 The public record shall not include any information that relates
31 to any trade secrets, patent, process, style of work, apparatus,
32 business secret, or organizational structure, that if disclosed,
33 would adversely affect the fee payer or violate the confidentiality
34 provisions of Section 40175. No list shall be prepared and no
35 releases distributed by the board in connection with these
36 statements.

37 (k) Any compromise made under this section may be
38 rescinded, all compromised liabilities may be reestablished,
39 without regard to any statute of limitations that otherwise may be

1 applicable, and no portion of the amount offered in compromise
2 refunded, if either of the following occurs:

3 (1) The board determines that any person did any of the
4 following acts regarding the making of the offer:

5 (A) Concealed from the board any property belonging to the
6 estate of any fee payer or other person liable for the fee.

7 (B) Received, withheld, destroyed, mutilated, or falsified any
8 book, document, or record or made any false statement, relating
9 to the estate or financial condition of the fee payer or other
10 person liable for the fee.

11 (2) The fee payer fails to comply with any of the terms and
12 conditions relative to the offer.

13 (l) Any person who, in connection with any offer or
14 compromise under this section, or offer of that compromise to
15 enter into that agreement, willfully does either of the following
16 shall be guilty of a felony and, upon conviction, shall be fined
17 not more than fifty thousand dollars (\$50,000) or imprisoned in
18 the state prison, or both, together with the costs of investigation
19 and prosecution:

20 (1) Conceals from any officer or employee of this state any
21 property belonging to the estate of a fee payer or other person
22 liable in respect of the fee.

23 (2) Receives, withholds, destroys, mutilates, or falsifies any
24 book, document, or record, or makes any false statement, relating
25 to the estate or financial condition of the fee payer or other
26 person liable in respect of the fee.

27 (m) For purposes of this section, "person" means the fee
28 payer, any member of the fee payer's family, any corporation,
29 agent, fiduciary, or representative of, or any other individual or
30 entity acting on behalf of, the fee payer, or any other corporation
31 or entity owned or controlled by the fee payer, directly or
32 indirectly, or that owns or controls the fee payer, directly or
33 indirectly.

34 SEC. 30. Section 50140.2 is added to the Revenue and
35 Taxation Code, to read:

36 50140.2. Notwithstanding Section 50140, a refund of an
37 overpayment of any fee, penalty, or interest collected by the
38 board by means of levy, through the use of liens, or by other
39 enforcement procedures, shall be approved if a claim for a refund
40 is filed within three years of the date of an overpayment.

SEC. 31. Section 50156.11 of the Revenue and Taxation Code is amended to read:

50156.11. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to fee matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any fee matter in dispute.

(2) No recommendation of settlement shall be submitted to the board, itself, unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, itself, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(3) A settlement of any civil fee matter in dispute involving a reduction of fee or penalties in settlement, the total of which reduction of fee and penalties in settlement does not exceed five thousand dollars (\$5,000), may be approved by the executive director and chief counsel, jointly. The executive director shall notify the board, itself, of any settlement approved pursuant to this paragraph.

(c) Whenever a reduction of fees, or penalties, or total fees and penalties in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the fee payers who are parties to the settlement.

1 (2) The total amount in dispute.

2 (3) The amount agreed to pursuant to the settlement.

3 (4) A summary of the reasons why the settlement is in the best
4 interests of the State of California.

5 (5) For any settlement approved by the board, itself, the
6 Attorney General's conclusion as to whether the recommendation
7 of settlement was reasonable from an overall perspective.

8 The public record shall not include any information that relates
9 to any trade secret, patent, process, style of work, apparatus,
10 business secret, or organizational structure that, if disclosed,
11 would adversely affect the fee payer or the national defense.

12 (d) The members of the State Board of Equalization shall not
13 participate in the settlement of fee matters pursuant to this
14 section, except as provided in subdivision (e).

15 (e) (1) Any recommendation for settlement shall be approved
16 or disapproved by the board, itself, within 45 days of the
17 submission of that recommendation to the board. Any
18 recommendation for settlement that is not either approved or
19 disapproved by the board, itself, within 45 days of the
20 submission of that recommendation shall be deemed approved.
21 Upon approval of a recommendation for settlement, the matter
22 shall be referred back to the executive director or chief counsel in
23 accordance with the decision of the board.

24 (2) Disapproval of a recommendation for settlement shall be
25 made only by a majority vote of the board. Where the board
26 disapproves a recommendation for settlement, the matter shall be
27 remanded to board staff for further negotiation, and may be
28 resubmitted to the board, in the same manner and subject to the
29 same requirements as the initial submission, at the discretion of
30 the executive director or chief counsel.

31 (f) All settlements entered into pursuant to this section shall be
32 final and nonappealable, except upon a showing of fraud or
33 misrepresentation with respect to a material fact.

34 (g) Any proceedings undertaken by the board itself pursuant to
35 a settlement as described in this section shall be conducted in a
36 closed session or sessions.

37 (h) This section shall apply only to fee matters in dispute on or
38 after the effective date of the act adding this subdivision.

39 (i) The Legislature finds that it is essential for fiscal purposes
40 that the settlement program authorized by this section be

1 expeditiously implemented. Accordingly, Chapter 3.5
2 (commencing with Section 11340) of Part 1 of Division 3 of Title
3 2 of the Government Code shall not apply to any determination,
4 rule, notice, or guideline established or issued by the board in
5 implementing and administering the settlement program
6 authorized by this section.

7 SEC. 32. Section 55222.2 is added to the Revenue and
8 Taxation Code, to read:

9 55222.2. Notwithstanding Section 55222, a refund of an
10 overpayment of any fee, penalty, or interest collected by the
11 board by means of levy, through the use of liens, or by other
12 enforcement procedures, shall be approved if a claim for a refund
13 is filed within three years of the date of an overpayment.

14 SEC. 33. Section 55332 of the Revenue and Taxation Code is
15 amended to read:

16 55332. (a) It is the intent of the Legislature that the State
17 Board of Equalization, its staff, and the Attorney General pursue
18 settlements as authorized under this section with respect to fee
19 matters in dispute that are the subject of protests, appeals, or
20 refund claims, consistent with a reasonable evaluation of the
21 costs and risks associated with litigation of these matters.

22 (b) (1) Except as provided in paragraph (3) and subject to
23 paragraph (2), the executive director or chief counsel, if
24 authorized by the executive director, of the board may
25 recommend to the State Board of Equalization, itself, a
26 settlement of any fee matter in dispute.

27 (2) No recommendation of settlement shall be submitted to the
28 board, itself, unless and until that recommendation has been
29 submitted by the executive director or chief counsel to the
30 Attorney General. Within 30 days of receiving that
31 recommendation, the Attorney General shall review the
32 recommendation and advise, in writing, the executive director or
33 chief counsel of the board of his or her conclusions as to whether
34 the recommendation is reasonable from an overall perspective.
35 The executive director or chief counsel shall, with each
36 recommendation of settlement submitted to the board, itself, also
37 submit the Attorney General's written conclusions obtained
38 pursuant to this paragraph.

39 (3) A settlement of any civil fee matter in dispute involving a
40 reduction of fee or penalties in settlement, the total of which

1 reduction of fee and penalties in settlement does not exceed five
2 thousand dollars (\$5,000), may be approved by the executive
3 director and chief counsel, jointly. The executive director shall
4 notify the board, itself, of any settlement approved pursuant to
5 this paragraph.

6 (c) Whenever a reduction of fees, or penalties, or total fees and
7 penalties in settlement in excess of five hundred dollars (\$500) is
8 approved pursuant to this section, there shall be placed on file,
9 for at least one year, in the office of the executive director of the
10 board a public record with respect to that settlement. The public
11 record shall include all of the following information:

12 (1) The name or names of the fee payers who are parties to the
13 settlement.

14 (2) The total amount in dispute.

15 (3) The amount agreed to pursuant to the settlement.

16 (4) A summary of the reasons why the settlement is in the best
17 interests of the State of California.

18 (5) For any settlement approved by the board, itself, the
19 Attorney General's conclusion as to whether the recommendation
20 of settlement was reasonable from an overall perspective.

21 The public record shall not include any information that relates
22 to any trade secret, patent, process, style of work, apparatus,
23 business secret, or organizational structure that, if disclosed,
24 would adversely affect the fee payer or the national defense.

25 (d) The members of the State Board of Equalization shall not
26 participate in the settlement of fee matters pursuant to this
27 section, except as provided in subdivision (e).

28 (e) (1) Any recommendation for settlement shall be approved
29 or disapproved by the board, itself, within 45 days of the
30 submission of that recommendation to the board. Any
31 recommendation for settlement that is not either approved or
32 disapproved by the board, itself, within 45 days of the
33 submission of that recommendation shall be deemed approved.
34 Upon approval of a recommendation for settlement, the matter
35 shall be referred back to the executive director or chief counsel in
36 accordance with the decision of the board.

37 (2) Disapproval of a recommendation for settlement shall be
38 made only by a majority vote of the board. Where the board
39 disapproves a recommendation for settlement, the matter shall be
40 remanded to board staff for further negotiation, and may be

1 resubmitted to the board, in the same manner and subject to the
2 same requirements as the initial submission, at the discretion of
3 the executive director or chief counsel.

4 (f) All settlements entered into pursuant to this section shall be
5 final and nonappealable, except upon a showing of fraud or
6 misrepresentation with respect to a material fact.

7 (g) Any proceedings undertaken by the board itself pursuant to
8 a settlement as described in this section shall be conducted in a
9 closed session or sessions. Except as provided in subdivision (c),
10 any settlement considered or entered into pursuant to this section
11 shall constitute confidential information for purposes of Section
12 55381.

13 (h) This section shall apply only to fee matters in dispute on or
14 after the effective date of the act adding this subdivision.

15 (i) The Legislature finds that it is essential for fiscal purposes
16 that the settlement program authorized by this section be
17 expeditiously implemented. Accordingly, Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code shall not apply to any determination,
20 rule, notice, or guideline established or issued by the board in
21 implementing and administering the settlement program
22 authorized by this section.

23 SEC. 34. Section 55332.5 is added to the Revenue and
24 Taxation Code, to read:

25 55332.5. (a) (1) Beginning on January 1, 2007, the executive
26 director and chief counsel of the board, or their delegates, may
27 compromise any final fee liability where the reduction of fees is
28 seven thousand five hundred dollars (\$7,500) or less.

29 (2) Except as provided in paragraph (3), the board, upon
30 recommendation by its executive director and chief counsel,
31 jointly, may compromise a final fee liability involving a
32 reduction in fees in excess of seven thousand five hundred
33 dollars (\$7,500). Any recommendation for approval of an offer in
34 compromise that is not either approved or disapproved within 45
35 days of the submission of the recommendation shall be deemed
36 approved.

37 (3) The board, itself, may by resolution delegate to the
38 executive director and the chief counsel, jointly, the authority to
39 compromise a final fee liability in which the reduction of fees is

1 in excess of seven thousand five hundred dollars (\$7,500), but
2 less than ten thousand dollars (\$10,000).

3 (b) For purposes of this section, “a final fee liability” means
4 any final fee liability arising under Part 30 (commencing with
5 Section 55001), or related interest, additions to fees, penalties, or
6 other amounts assessed under this part.

7 (c) Offers in compromise shall be considered only for
8 liabilities that were generated from a business that has been
9 discontinued or transferred, where the fee payer making the offer
10 no longer has a controlling interest or association with the
11 transferred business or has a controlling interest or association
12 with a similar type of business as the transferred or discontinued
13 business.

14 (d) Offers in compromise shall not be considered where the
15 fee payer has been convicted of felony tax evasion under this part
16 during the liability period.

17 (e) For amounts to be compromised under this section, the
18 following conditions shall exist:

19 (1) The fee payer shall establish that:

20 (A) The amount offered in payment is the most that can be
21 expected to be paid or collected from the fee payer’s present
22 assets or income.

23 (B) The fee payer does not have reasonable prospects of
24 acquiring increased income or assets that would enable the fee
25 payer to satisfy a greater amount of the liability than the amount
26 offered, within a reasonable period of time.

27 (2) The board shall have determined that acceptance of the
28 compromise is in the best interest of the state.

29 (f) A determination by the board that it would not be in the
30 best interest of the state to accept an offer in compromise in
31 satisfaction of a final fee liability shall not be subject to
32 administrative appeal or judicial review.

33 (g) (1) Offers for liabilities with a fraud or evasion penalty
34 shall require a minimum offer of the unpaid fee and fraud or
35 evasion penalty.

36 (2) The minimum offer may be waived if it can be shown that
37 the fee payer making the offer was not the person responsible for
38 perpetrating the fraud or evasion. This authorization to waive
39 only applies to partnership accounts where the intent to commit

1 fraud or evasion can be clearly attributed to a partner of the fee
2 payer.

3 (h) When an offer in compromise is either accepted or
4 rejected, or the terms and conditions of a compromise agreement
5 are fulfilled, the board shall notify the fee payer in writing. In the
6 event an offer is rejected, the amount posted will either be
7 applied to the liability or refunded, at the discretion of the fee
8 payer.

9 (i) When more than one fee payer is liable for the debt, such as
10 with spouses or partnerships or other business combinations,
11 including, but not limited to, fee payers who are liable through
12 dual determination or successor's liability, the acceptance of an
13 offer in compromise from one liable fee payer shall reduce the
14 amount of the liability of the other fee payers by the amount of
15 the accepted offer.

16 (j) Whenever a compromise of fees or penalties or total fees
17 and penalties in excess of five hundred dollars (\$500) is
18 approved, there shall be placed on file for at least one year in the
19 office of the executive director of the board a public record with
20 respect to that compromise. The public record shall include all of
21 the following information:

22 (1) The name of the fee payer.

23 (2) The amount of unpaid fees and related penalties, additions
24 to fees, interest, or other amounts involved.

25 (3) The amount offered.

26 (4) A summary of the reason why the compromise is in the
27 best interest of the state.

28 The public record shall not include any information that relates
29 to any trade secrets, patent, process, style of work, apparatus,
30 business secret, or organizational structure, that if disclosed,
31 would adversely affect the fee payer or violate the confidentiality
32 provisions of Section 55381. No list shall be prepared and no
33 releases distributed by the board in connection with these
34 statements.

35 (k) Any compromise made under this section may be
36 rescinded, all compromised liabilities may be reestablished,
37 without regard to any statute of limitations that otherwise may be
38 applicable, and no portion of the amount offered in compromise
39 refunded, if either of the following occurs:

1 (1) The board determines that any person did any of the
2 following acts regarding the making of the offer:

3 (A) Concealed from the board any property belonging to the
4 estate of any fee payer or other person liable for the fee.

5 (B) Received, withheld, destroyed, mutilated, or falsified any
6 book, document, or record or made any false statement, relating
7 to the estate or financial condition of the fee payer or other
8 person liable for the fee.

9 (2) The fee payer fails to comply with any of the terms and
10 conditions relative to the offer.

11 (l) Any person who, in connection with any offer or
12 compromise under this section, or offer of that compromise to
13 enter into that agreement, willfully does either of the following
14 shall be guilty of a felony and, upon conviction, shall be fined
15 not more than fifty thousand dollars (\$50,000) or imprisoned in
16 the state prison, or both, together with the costs of investigation
17 and prosecution:

18 (1) Conceals from any officer or employee of this state any
19 property belonging to the estate of a fee payer or other person
20 liable in respect of the fee.

21 (2) Receives, withholds, destroys, mutilates, or falsifies any
22 book, document, or record, or makes any false statement, relating
23 to the estate fee.

24 (m) For purposes of this section, “person” means the fee
25 payer, any member of the fee payer’s family, any corporation,
26 agent, fiduciary, or representative of, or any other individual or
27 entity acting on behalf of, the fee payer, or any other corporation
28 or entity owned or controlled by the fee payer, directly or
29 indirectly, or that owns or controls the fee payer, directly or
30 indirectly.

31 SEC. 35. Section 60045 of the Revenue and Taxation Code is
32 repealed.

33 SEC. 36. Section 60046 of the Revenue and Taxation Code is
34 repealed.

35 SEC. 37. Section 60063 of the Revenue and Taxation Code is
36 amended to read:

37 60063. (a) The board may accept from the person who
38 receives diesel fuel removed at a refinery or terminal rack an
39 amount equal to the tax due and required to be paid by the refiner
40 or positionholder upon the removal of the diesel fuel from a

1 refinery or terminal rack, as if the amount were payment of the
2 tax by the refiner or positionholder under Section 60051 or
3 60052, as the case may be, if the Internal Revenue Service
4 authorizes payment of federal fuel taxes by the receiving party
5 under a two-party exchange agreement or similar arrangement.

6 (b) The refiner or positionholder shall remain primarily liable
7 for payment of the tax imposed by Section 60051 or 60052 for
8 diesel fuel removed at the refinery or terminal rack, as the case
9 may be, plus any penalty or interest, until the amount is finally
10 paid and credited to the account of the responsible refiner or
11 positionholder; provided, however, that the board, at its
12 discretion, may relieve the refiner or positionholder from primary
13 liability for payment of tax imposed by Section 60051 or 60052
14 and hold another person primarily liable for the tax if (i) the
15 Internal Revenue Service authorizes payment of fuel taxes by the
16 receiving party under a two-party exchange agreement, and (ii)
17 under the Internal Revenue Service approach to a two-party
18 exchange agreement, another person is primarily liable for
19 payment of the tax, and (iii) the board elects to follow the
20 Internal Revenue Service approach.

21 (c) The board may adopt those regulations as it deems
22 appropriate to carry out this section.

23 SEC. 38. Section 60101 of the Revenue and Taxation Code is
24 amended to read:

25 60101. (a) Diesel fuel that is required to be dyed satisfies the
26 dyeing requirement of this part if it meets the dyeing
27 requirements of the United States Environmental Protection
28 Agency and the Internal Revenue Service, including, but not
29 limited to, requirements respecting type, dosage, and timing.

30 (b) Marking shall meet the marking requirements of the
31 Internal Revenue Service.

32 (c) No person shall operate or maintain a motor vehicle on any
33 public highway in this state with dyed diesel fuel in the fuel
34 supply tank. This subdivision does not apply to uses of dyed
35 diesel fuel on the highway that are lawful under the Internal
36 Revenue Code or regulations promulgated thereunder, if the
37 person is registered as a qualified highway vehicle operator,
38 exempt bus operator, or government entity.

39 SEC. 39. Section 60201.3 of the Revenue and Taxation Code
40 is amended to read:

1 60201.3. (a) A supplier is relieved from liability for diesel
2 fuel tax insofar as the sales of the diesel fuel are represented by
3 accounts which have been found worthless and charged off for
4 income tax purposes. If the supplier has previously paid the
5 amount of the tax, he or she may, under the rules and regulations
6 prescribed by the board, take a credit in that amount. If those
7 accounts are thereafter in whole or in part collected by the
8 supplier, the gallons of diesel fuel represented by the amounts
9 collected shall be included in the first return filed after that
10 collection and the amount of the tax thereon shall be paid with
11 the return. The board may, at its option, require the supplier to
12 submit periodic reports listing accounts delinquent for a 90-day
13 period or more.

14 (b) Any customer of a supplier who has failed to pay for diesel
15 fuel purchased and for which the supplier has been allowed a
16 credit under subdivision (a) is liable to the state for the diesel fuel
17 tax as an unlicensed supplier and the tax, applicable penalties,
18 and interest become immediately due and payable under the
19 unlicensed persons provisions contained in Article 6
20 (commencing with Section 60360) of Chapter 6. The notice of
21 determination issued under Section 60361 shall be given to the
22 customer within three years of the last day of the calendar month
23 following the reporting period for which the supplier took a
24 credit for the tax previously paid on the customer's account or
25 within three years after the date a refund of the tax was paid.

26 SEC. 40. Section 60522.2 is added to the Revenue and
27 Taxation Code, to read:

28 60522.2. Notwithstanding Section 60522, a refund of an
29 overpayment of any tax, penalty, or interest collected by the
30 board by means of levy, through the use of liens, or by other
31 enforcement procedures, shall be approved if a claim for a refund
32 is filed within three years of the date of an overpayment.

33 SEC. 41. Section 60604 of the Revenue and Taxation Code is
34 amended to read:

35 60604. Every interstate user, supplier, exempt bus operator,
36 government entity, ultimate vendor, qualified highway vehicle
37 operator, highway vehicle operator/fueler, train operator, pipeline
38 operator, vessel operator, and every person dealing in, removing,
39 transporting, or storing diesel fuel in this state shall keep those
40 records, receipts, invoices, and other pertinent papers with

1 respect thereto in that form as the board may require. Failure to
2 maintain records will constitute a misdemeanor punishable as
3 provided in Section 60706.

4 SEC. 42. Section 60606 of the Revenue and Taxation Code is
5 amended to read:

6 60606. The board or its authorized representative may
7 examine the books, records, and equipment of any interstate user,
8 supplier, exempt bus operator, government entity, ultimate
9 vendor, qualified highway vehicle operator, highway vehicle
10 operator/fueler, train operator, pipeline operator, vessel operator,
11 or person dealing in, removing, transporting, or storing diesel
12 fuel and may investigate the character of the disposition that the
13 interstate user, supplier, exempt bus operator, government entity,
14 ultimate vendor, qualified highway vehicle operator, highway
15 vehicle operator/fueler, train operator, pipeline operator, vessel
16 operator, or person makes of the diesel fuel in order to ascertain
17 whether all taxes due under this part are being properly reported
18 and paid.

19 SEC. 43. Section 60636 of the Revenue and Taxation Code is
20 amended to read:

21 60636. (a) It is the intent of the Legislature that the State
22 Board of Equalization, its staff, and the Attorney General pursue
23 settlements as authorized under this section with respect to civil
24 tax matters in dispute that are the subject of protests, appeals, or
25 refund claims, consistent with a reasonable evaluation of the
26 costs and risks associated with litigation of these matters.

27 (b) (1) Except as provided in paragraph (3) and subject to
28 paragraph (2), the executive director or chief counsel, if
29 authorized by the executive director, of the board may
30 recommend to the State Board of Equalization, itself, a
31 settlement of any civil tax matter in dispute.

32 (2) No recommendation of settlement shall be submitted to the
33 board, itself, unless and until that recommendation has been
34 submitted by the executive director or chief counsel to the
35 Attorney General. Within 30 days of receiving that
36 recommendation, the Attorney General shall review the
37 recommendation and advise, in writing, the executive director or
38 chief counsel of the board of his or her conclusions as to whether
39 the recommendation is reasonable from an overall perspective.

40 The executive director or chief counsel shall, with each

1 recommendation of settlement submitted to the board, itself, also
2 submit the Attorney General's written conclusions obtained
3 pursuant to this paragraph.

4 (3) A settlement of any civil tax matter in dispute involving a
5 reduction of tax or penalties in settlement, the total of which
6 reduction of tax and penalties in settlement does not exceed five
7 thousand dollars (\$5,000), may be approved by the executive
8 director and chief counsel, jointly. The executive director shall
9 notify the board, itself, of any settlement approved pursuant to
10 this paragraph.

11 (c) Whenever a reduction of tax, or penalties, or total tax and
12 penalties in settlement in excess of five hundred dollars (\$500) is
13 approved pursuant to this section, there shall be placed on file,
14 for at least one year, in the office of the executive director of the
15 board a public record with respect to that settlement. The public
16 record shall include all of the following information:

17 (1) The name or names of the taxpayers who are parties to the
18 settlement.

19 (2) The total amount in dispute.

20 (3) The amount agreed to pursuant to the settlement.

21 (4) A summary of the reasons why the settlement is in the best
22 interests of the State of California.

23 (5) For any settlement approved by the board, itself, the
24 Attorney General's conclusion as to whether the recommendation
25 of settlement was reasonable from an overall perspective.

26 The public record shall not include any information that relates
27 to any trade secret, patent, process, style of work, apparatus,
28 business secret, or organizational structure that, if disclosed,
29 would adversely affect the taxpayer or the national defense.

30 (d) The members of the State Board of Equalization shall not
31 participate in the settlement of tax matters pursuant to this
32 section, except as provided in subdivision (e).

33 (e) (1) Any recommendation for settlement shall be approved
34 or disapproved by the board, itself, within 45 days of the
35 submission of that recommendation to the board. Any
36 recommendation for settlement that is not either approved or
37 disapproved by the board, itself, within 45 days of the
38 submission of that recommendation shall be deemed approved.
39 Upon approval of a recommendation for settlement, the matter

1 shall be referred back to the executive director or chief counsel in
2 accordance with the decision of the board.

3 (2) Disapproval of a recommendation for settlement shall be
4 made only by a majority vote of the board. Where the board
5 disapproves a recommendation for settlement, the matter shall be
6 remanded to board staff for further negotiation, and may be
7 resubmitted to the board, in the same manner and subject to the
8 same requirements as the initial submission, at the discretion of
9 the executive director or chief counsel.

10 (f) All settlements entered into pursuant to this section shall be
11 final and nonappealable, except upon a showing of fraud or
12 misrepresentation with respect to a material fact.

13 (g) Any proceedings undertaken by the board itself pursuant to
14 a settlement as described in this section shall be conducted in a
15 closed session or sessions. Except as provided in subdivision (c),
16 any settlement considered or entered into pursuant to this section
17 shall constitute confidential tax information for purposes of
18 Section 60609.

19 (h) This section shall apply only to civil tax matters in dispute
20 on or after the effective date of the act adding this subdivision.

21 (i) The Legislature finds that it is essential for fiscal purposes
22 that the settlement program authorized by this section be
23 expeditiously implemented. Accordingly, Chapter 3.5
24 (commencing with Section 11340) of Part 1 of Division 3 of Title
25 2 of the Government Code shall not apply to any determination,
26 rule, notice, or guideline established or issued by the board in
27 implementing and administering the settlement program
28 authorized by this section.

29 SEC. 44. Section 60637 is added to the Revenue and
30 Taxation Code, to read:

31 60637. (a) (1) Beginning on January 1, 2007, the executive
32 director and chief counsel of the board, or their delegates, may
33 compromise any final tax liability where the reduction of tax is
34 seven thousand five hundred dollars (\$7,500) or less.

35 (2) Except as provided in paragraph (3), the board, upon
36 recommendation by its executive director and chief counsel,
37 jointly, may compromise a final tax liability involving a
38 reduction in tax in excess of seven thousand five hundred dollars
39 (\$7,500). Any recommendation for approval of an offer in
40 compromise that is not either approved or disapproved within 45

1 days of the submission of the recommendation shall be deemed
2 approved.

3 (3) The board, itself, may by resolution delegate to the
4 executive director and the chief counsel, jointly, the authority to
5 compromise a final tax liability in which the reduction of tax is in
6 excess of seven thousand five hundred dollars (\$7,500), but less
7 than ten thousand dollars (\$10,000).

8 (b) For purposes of this section, “a final tax liability” means
9 any final tax liability arising under Part 31 (commencing with
10 Section 60001), or related interest, additions to tax, penalties, or
11 other amounts assessed under this part.

12 (c) Offers in compromise shall be considered only for
13 liabilities that were generated from a business that has been
14 discontinued or transferred, where the taxpayer making the offer
15 no longer has a controlling interest or association with the
16 transferred business or has a controlling interest or association
17 with a similar type of business as the transferred or discontinued
18 business.

19 (d) Offers in compromise shall not be considered where the
20 taxpayer has been convicted of felony tax evasion under this part
21 during the liability period.

22 (e) For amounts to be compromised under this section, the
23 following conditions shall exist:

24 (1) The taxpayer shall establish that:

25 (A) The amount offered in payment is the most that can be
26 expected to be paid or collected from the taxpayer’s present
27 assets or income.

28 (B) The taxpayer does not have reasonable prospects of
29 acquiring increased income or assets that would enable the
30 taxpayer to satisfy a greater amount of the liability than the
31 amount offered, within a reasonable period of time.

32 (2) The board shall have determined that acceptance of the
33 compromise is in the best interest of the state.

34 (f) A determination by the board that it would not be in the
35 best interest of the state to accept an offer in compromise in
36 satisfaction of a final tax liability shall not be subject to
37 administrative appeal or judicial review.

38 (g) (1) Offers for liabilities with a fraud or evasion penalty
39 shall require a minimum offer of the unpaid tax and fraud or
40 evasion penalty.

(2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(i) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(j) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 60609. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished,

1 without regard to any statute of limitations that otherwise may be
2 applicable, and no portion of the amount offered in compromise
3 refunded, if either of the following occurs:

4 (1) The board determines that any person did any of the
5 following acts regarding the making of the offer:

6 (A) Concealed from the board any property belonging to the
7 estate of any taxpayer or other person liable for the tax.

8 (B) Received, withheld, destroyed, mutilated, or falsified any
9 book, document, or record or made any false statement, relating
10 to the estate or financial condition of the taxpayer or other person
11 liable for the tax.

12 (2) The taxpayer fails to comply with any of the terms and
13 conditions relative to the offer.

14 (l) Any person who, in connection with any offer or
15 compromise under this section, or offer of that compromise to
16 enter into that agreement, willfully does either of the following
17 shall be guilty of a felony and, upon conviction, shall be fined
18 not more than fifty thousand dollars (\$50,000) or imprisoned in
19 the state prison, or both, together with the costs of investigation
20 and prosecution:

21 (1) Conceals from any officer or employee of this state any
22 property belonging to the estate of a taxpayer or other person
23 liable in respect of the tax.

24 (2) Receives, withholds, destroys, mutilates, or falsifies any
25 book, document, or record, or makes any false statement, relating
26 to the estate or financial condition of the taxpayer or other person
27 liable in respect of the tax.

28 (m) For purposes of this section, “person” means the taxpayer,
29 any member of the taxpayer’s family, any corporation, agent,
30 fiduciary, or representative of, or any other individual or entity
31 acting on behalf of, the taxpayer, or any other corporation or
32 entity owned or controlled by the taxpayer, directly or indirectly,
33 or that owns or controls the taxpayer, directly or indirectly.

34 ~~SEC. 45. No reimbursement is required by this act pursuant~~
35 ~~to Section 6 of Article XIII B of the California Constitution~~
36 ~~because the only costs that may be incurred by a local agency or~~
37 ~~school district will be incurred because this act creates a new~~
38 ~~crime or infraction, eliminates a crime or infraction, or changes~~
39 ~~the penalty for a crime or infraction, within the meaning of~~
40 ~~Section 17556 of the Government Code, or changes the~~

1 ~~definition of a crime within the meaning of Section 6 of Article~~
2 ~~XIII B of the California Constitution.~~

3 *SEC. 45. No reimbursement is required by this act pursuant*
4 *to Section 6 of Article XIII B of the California Constitution for*
5 *certain costs that may be incurred by a local agency or school*
6 *district because, in that regard, this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the*
8 *penalty for a crime or infraction, within the meaning of Section*
9 *17556 of the Government Code, or changes the definition of a*
10 *crime within the meaning of Section 6 of Article XIII B of the*
11 *California Constitution.*

12 *However, if the Commission on State Mandates determines that*
13 *this act contains other costs mandated by the state,*
14 *reimbursement to local agencies and school districts for those*
15 *costs shall be made pursuant to Part 7 (commencing with Section*
16 *17500) of Division 4 of Title 2 of the Government Code.*